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B

920,174

y fifth vote thus ~~///~~

ach blank vote on split ballots. (Otherwise your

EDITION 1917

ANNUAL

and Voters

YORK

*Constitutional Provisions Con-
stitutes Statutes concerning
Registration, etc., Political
and Law Provisions
Franchise, Public
Law to State,
Officers and
and Act to
of Con-*

with Annotations,

EDITION

COMPANY,

... (Elec. L., § 40.)
Certified Copies of Rules and Regulations Adopted
filed within three days of their adoption with custodian
(Elec. L., § 40.)

When a Candidate Dies After the Official Ballots
vacancy can be filled by filing the proper certificates, and
the official ballots must then provide official pasters
the new nominees. The pasters are affixed to the balls
before delivering to the electors. (Elec. L., § 137.)

Objection to Nomination Certificate must be made w
the filing thereof. (Elec. L., § 134.)

Publication of Nominations in newspapers not la
(Elec. L., § 130.)

Consolidation or Changing of Election Districts on or
changes take effect September 26. (Elec. L., §§ 296, 297)

Election Officers for New or Changed Districts to be a
September 1, said appointments to take effect on or b
registration, and not earlier than September 26. (Elec. L., § 303.)

Certificates of Designation to be filed with the Secretar
todian of Primary Records, August 14 to August 21. (El

Signature to Designating Petition made earlier than
the official primary shall be void. (Elec. L., § 48, subd.

Declinations of Designations; last day for filing, August

New Designations after Declination; last day for fi
(Elec. L., § 50.)

Designations Filed with Secretary of State; last day fo
them to custodians, September 6. (Elec. L., § 51; L. 1917

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Statement of Committees and Officers, etc., to be filed
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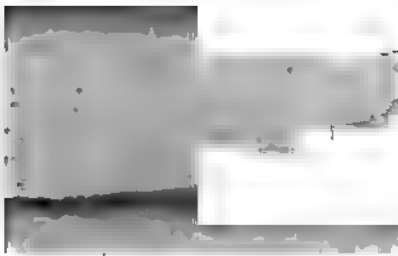
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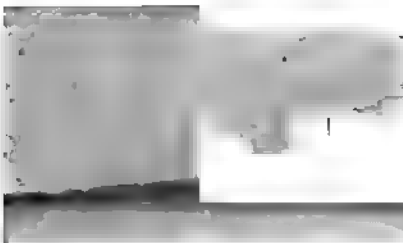
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ELECTION LAW

OF THE

STATE OF NEW YORK

**LAWS OF 1909, CHAPTER 22, WITH ALL AMENDMENTS PASSED TO
THE END OF THE LEGISLATIVE SESSION OF 1917.**

**AN ACT in relation to the elections, constituting chapter seven-
teen of the consolidated laws.**

Became a law February 17, 1909, with the approval of the Governor.
Passed, three-fifths being present.

*The People of the State of New York, represented in Senate
and Assembly, do enact as follows:*

CHAPTER 17 OF THE CONSOLIDATED LAWS.

ELECTION LAW.

- Article
1. Short title; application; definitions (§§ 1-3).
 2. Enrollment of voters (§§ 4-24).
 3. Party organization (§§ 35-40).
 4. Designation of candidates for party nominations or for election to party positions (§§ 45-58).
 - 4-a. Conduct of primary elections; canvass of returns (§§ 70-94).
 - 4-b. Conventions (§§ 110-114).
 5. Nominations (§§ 120-137).
 6. Registration of voters (§§ 150-184).
 7. Board of elections (§§ 190-208).
 8. Times, places, notices, officers and expenses of elections (§§ 290-320).
 9. Ballots and stationery (§§ 330-345).
 10. Conduct of elections and canvass of votes (§§ 350-381).
 11. Voting machines (§§ 390-421).
 12. Boards of canvassers (§§ 430-444).
 13. United States senators, representatives in congress and presidential electors (§§ 449-457).

3. Definitions.

[Schedule of sections thus amended by Laws 191
effect Nov. 15, 1911.]

§ 1. Short title.

This chapter shall be known as the "Election L

Derivation: Election Law, § 1.

Consolidators' general note.— The Election Law includes the following formerly separate laws, as amended
Primary Election Law, L. 1899, ch. 473 (amending
ch. 179).

Town Enrollment Act, L. 1902, ch. 195.

Soldiers' and Sailors' Election Law, L. 1898, ch. 674.

Metropolitan Elections District Law, L. 1906, c
throughout L. 1898, ch. 676).

Act creating a Commissioner of Elections in Erie
ch. 394.

Act creating a Commissioner of Elections in West
1907, ch. 255.

Certain provisions relating to elections in towns, village
tricts, appearing heretofore in the Town, Village and School
involved in provisions of those laws more analogous to ce
Constitution and the Legislative Law than to the Election
left in the Town, Village and Schools Laws where they
provisions already in the Election Law have been allowed
of being placed in the Penal Code with the considerable
here concerning crimes against the elective franchise. B

cepting also the constitutional provisions, all the existing
ual nature relating to elections, including certain excepti
eme, which are in one sense special or local, but without
r would be incomplete, e. g. the special provisions for a
New York City, and for the commissioners of elections
r counties, are included.

ARRANGEMENT OF LAW.

An effort has been made to follow the chronological ord
cess so far as a fairly close adherence to
inning with the

proceedings of the presidential electors in presidential years. To these have been added the provisions which have no special relation to the others in order of time, or which are incapable of adaptation to such an arrangement without fundamental change in the form of the law. The several laws here consolidated were themselves more or less consistently arranged upon the chronological plan, and accordingly the various main divisions of this consolidated law will be found to conform within themselves in greater or less degree to the chronological principle.

EDITING.

The rearrangement incidental to the consolidation has made necessary an entire renumbering of the sections of the law. Advantage has been taken of this opportunity to simplify the arrangement by eliminating the "subdivisions" of sections wherever they occurred in the old laws, the division here being into *sections* only. At the same time many of the old sections and subdivisions, sometimes of inordinate length and not wholly homogeneous in character, have been cut into two or more sections. The sectional numbers run consecutively within the articles, but gaps are left between the articles for new sections. It is conceivable, indeed, that subdivision of sections may be wisely resorted to in certain instances in making further amendments, rather than renumbering; but it was deemed advisable, especially in a law which is subject to such continual amendment as this, to begin with a clean slate.

For convenience of consultation, many of the sections have been divided into paragraphs, but without numbers or other designation. No notice of this is taken in the special notes relating to the sections.

The consolidation of several laws herein and the renumbering of the sections have necessitated changes in many references throughout the law, e. g. "the Election Law" becomes "this chapter," "this act" frequently becomes "this article." New section headings have been supplied where necessary, and the old ones amended; new analyses have likewise been prefixed to the articles where necessary, and the old ones amended.

"Elector," "electors," "an elector," have been changed throughout to "voter," "voters," "a voter," except when used of presidential electors. The several laws consolidated herein, like the Constitution, use both terms indiscriminately — sometimes both appear in the same section — although "elector" largely predominates. The impossibility of any confusion arising out of the use of the word "voter," the everyday use of the word by everybody outside of legal circles, and particularly the desirability of having a distinctive word for presidential electors, determined the consolidators in favor of "voter" rather than "elector," it having been previously determined that the usage should be made uniform throughout, whichever word was adopted.

The consolidators of this law have spent a large amount of time in merely editing the text. It may be justly charged that such work yields but superficial results in a case where thorough revision is demanded. The consolidators freely concede that such a course was a mere tithing of mint, anise and cummin, while letting go the weightier matters of the law. But under the limitations imposed upon the present work there was no alternative. In no instance has the intent of the law been changed in making these verbal changes.

Purpose of Election Law. — As to the purpose of election statute, see *Matter of McClosky*, 21 Misc. 365, 47 N. Y. Supp. 294.

Construction of Election Law. — The Election Law must be liberally construed. *Matter of Bulger*, (1905) 48 Misc. 584, 97 N. Y. Supp. 232.

The political rights of citizens are recognized by the laws of this State and the authority of the courts may be invoked for their vindication. *Brown v. Cole*, (1907) 54 Misc. 278, 104 N. Y. Supp. 109.

Determination of election questions by Court of Appeals. — The Court of Appeals will determine a question arising under the Election Law, although the election having been held it has ceased to be of practical importance in the particular case, where the full decision seems to be required to prevent embarrassment in the future from conflicting decisions. *Matter of Madden*, (1895) 148 N. Y. 136.

Derivation: Added by L. 1911, ch. 891 and amended
effect Dec. 17, 1913.

§ 3. Definitions.

The terms used in this chapter shall have the signification unless other meaning is clearly apparent in law.

1. The term "general election" means the election held on the Tuesday next succeeding the first Monday in November.

2. The term "official primary" or "official primary election" means a primary election held by a party for the purpose of nominating candidates for office or, electing persons to positions to be conducted by the public officers charged by law with conducting general elections. An "unofficial primary election" means any other primary or primary election held by a party or independent body.

3. The term "primary day" means the day upon which a primary election is held, as in this chapter provided.

4. The term "fall primary" means the official primary election held on the seventh Tuesday before the general election.

5. The term "spring primary" means the official primary election held on the first Tuesday in April in years when the President of the United States is to be elected.

6. The term "unit of representation" means any precinct, ward, or district of a city, assembly district, or any other division of the state, respectively, which is the unit for the purpose of electing members of any political committee or delegates to a party convention, as herein provided.

L. 1917, ch. 776.—In the year nineteen hundred and seventeen, the fall primary election, known as the fall primary, provided it shall be held on the seventh Tuesday before the general election, shall be held, instead, on Wednesday.

7. The term "custodian of primary records" means the officer or board whose duty it is by the provisions of this chapter to provide official ballots for general elections.

8. The term "board of elections" shall include a single commissioner of elections in a county having such an officer and the county clerk in any county which by the provisions of this chapter shall have no such board nor commissioner, except as otherwise provided in special provisions relating to any such county.

9. The term "party" means any political organization which at the last preceding election for governor polled at least ten thousand votes for governor.

10. The term "nomination" means the selection in accordance with the provisions of this chapter of a candidate for office authorized to be filled at a general election or at a special election held to fill a vacancy in such office.

11. The term "designation" means any method in accordance with the provisions of this chapter by which candidates for party nominations, or for election as party committeemen or delegates, may be named in order that they may be placed upon the official ballot for any official primary election.

12. The term "official primary ballot" means the ballot prepared, printed and supplied for use at an official primary election in accordance with the provisions of this chapter.

13. The term "party position" means membership in a party committee or the position of delegate or alternate to a national party convention.

14. The term "committee" means any committee chosen, in accordance with the provisions of this chapter, to represent the members of a party in any political subdivision of the state.

15. The term "independent body" means any organization or association of citizens which, by independent certificate, nominates candidates for office to be voted for at a general, special or village election, or town meeting, and which, if such independent body nominated a candidate for governor at the preceding general election of a governor, did not poll at least ten thousand votes for its candidate for such office.

16. The term "party nomination" means the selection by a

ly candidate" or "pa.
a person who is selected by a party to be its ca
authorized to be filled at a general election, or
held to fill a vacancy in such office, or at a te

19. The term "independent candidate"
nominee" means a person who is selected by a
to be its candidate for an office authorized to be
election, or at a special election held to fill a vac
or at a town meeting.

20. The term "enrollment books," when app
in a city of over one million inhabitants, means r
in which party enrollments of voters are entered
in additional columns.

Derivation: Election Law, § 50.

Formerly § 2, as amended by L. 1911, cha. 649 and 87
amended by L. 1911, ch. 891; amended by L. 1913, ch. 82
L. 1916, ch. 537, in effect May 15, 1916.

A special election day is not a holiday. Rept. of Atty.-
p. 217.

A town meeting is not a general election. Rept. of Atty.
p. 217.

ARTICLE 2.*

ENROLLMENT OF VOTERS.

- Section**
4. Delivery of enrollment books.
 5. Enrollment books.
 6. Voting booths and enrollment boxes.
 7. Enrollment blanks and envelopes.
 8. Delivery of enrollment blanks to voters who register personally.
 9. Delivery of enrollment blanks to voters where registration is not personal.
 10. Enrollment by voters.
 11. Examination, sealing and custody of enrollment boxes.
 12. Certification and secrecy of enrollment where registration is personal.
 13. Certification and secrecy of enrollment where registration is not personal.
 14. Opening of enrollment box and completion of enrollment.
 - 14-a. Correction of enrollment lists.
 - 14-b. Special enrollment upon becoming of age.
 - 14-c. Special enrollment for certain voters failing to enroll on election or registration days in the year nineteen hundred and sixteen.
 15. Enrollment for a new political party.
 16. Duplicate enrollment books.
 17. Use of duplicate enrollment books at unofficial primaries.
 18. Use of original enrollment books at official primaries.
 19. Right to enroll and vote at primaries.
 20. New enrollment books for changed districts.
 21. Enrollment books to be public records; transcripts of enrollment.
 22. Publication of enrollment.
 23. Judicial review of enrollment.
 24. Correction of enrollment with respect to persons not in sympathy with party.

§ 4. Delivery of enrollment books where registers do not include enrollments.

In any political subdivision in which the registers of electors do not provide for entries of party enrollments, the custodian of primary records shall cause to be prepared on or before the fifteenth day of September in each year, original enrollment books to the number of two for each election district. Such enrollment books shall be so arranged that the names of all voters of the election district may be inscribed therein alphabetically. Said books shall be delivered by the custodian of primary records to the election inspectors of the respective election districts immediately before the first day of registration in each year and also in districts wholly outside of a city or village having five thousand inhabitants or more, to the town clerk at least twenty-four hours before the first day of registration, who shall deliver such enrollment books to the inspectors of election of the respective election districts in his town one-half hour before the opening of the polls.

Derivation: Formerly § 22. Renumbered and amended by L. 1911, ch. 891, § 5; and amended by L. 1915, ch. 678, in effect May 22, 1915. Originally revised from Primary Election Law, § 3, pt. of subd. 1, as amended by L. 1900, ch. 226, § 1; L. 1903, ch. 111, § 1; L. 1905, ch. 674, § 1; L. 1908, ch. 456, § 1.

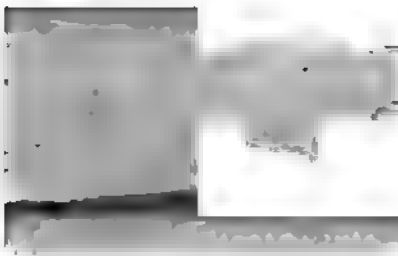
* The schedule of sections was amended by L. 1911, ch. 891, § 4, in effect November 15, 1911. Section 14-a added by L. 1912, ch. 52, in effect March 19, 1912.

...the party, if any, ...
...; the seventh for the word "voted
at the spring primary; the eighth for a
case he is challenged thereat; the ninth
similar entries in case he votes at the
eleventh and twelfth columns for similar
third official primary election or an uno
References, in this chapter, to a particul
of the enrollment books shall mean, when
more than one million inhabitants, the app
registers of electors.

Derivation: Formerly § 23. Renumbered and at
§ 6; and amended by L. 1915, ch. 674, in effect Ma
vised from Primary Election Law, § 3, pt. of subd.
ch. 225, § 1; L. 1903, ch. 111, § 1; L. 1905, ch. 674,

§ 6. Voting booths and enrollment boxes.

The board or officers authorized to furnish
election district for use at the general electio
two voting booths of the same kind and descri
used at general elections, to be erected in each
before the first day of registration in each y
shall be and remain in said places of registra
tration at the regular meetings for registrati
and it shall be the duty of such board or offic
voting booth so erected the same articles as a
be placed therein for a general election, which
therein during such registration. Such board
provide in like manner one enrollment box i
tration of sufficient capacity to hold all the en
are to be furnished for such place of -
similar to the 1 -



Originally revised from Primary Election Law, § 3, pt. of subd. 1, as amended by L. 1900, ch. 225, § 1; L. 1903, ch. 111, § 1; L. 1905, ch. 874, § 1; L. 1908, ch. 58, § 1.

§ 7. Enrollment blanks.

There shall also be prepared by the custodian of primary records at public expense, to be borne in the same manner as the expense of furnishing official ballots, and delivered by such custodian with the enrollment books, such number of enrollment blanks for each election district as will exceed by at least twenty-five and not more than fifty the total number of voters registered in such district. The enrollment blanks shall be printed on white paper, and on the face thereof shall be printed the following, or the substance thereof, the blanks to be filled in in type so far as possible:

“ Primary enrollment for the year City (or village or town) of; county of
..... assembly district (or ward or town);
election district; enrollment number

Name of voter

“ I,, who have placed a mark underneath the party emblem hereunder of my choice, do solemnly declare that I am a qualified voter of the election district in which I have registered or voted, and that my residence address is (the residence address as it appears in the register, if the enrollment be made on a day of registration, and as it appears in the poll book if the enrollment be made on the day of general election, is to be inserted in such space); That I am in general sympathy with the principles of the party which I have designated by my mark hereunder; that it is my intention to support generally at the next general election, state or national; the nominees of such party for state or national offices, and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last January.

... X mark, with a
the circle under the emblem of the
enroll, for the purpose of participating
during the next year."

- The circles underneath the emblems
inch in diameter, and in them nothing
emblem shall be the same as those with
each party respectively at the last precinct
such emblem shall be so arranged on each
of the majority party at the last precinct
governor shall be first, and the other emblem
in accordance with the vote cast for such officer.
each emblem shall be printed in type clear
the party represented by such emblem.
shall have thereon the names of those parties
article is applicable.

Derivation: Formerly § 26. Renumbered and amended by L. 1913, ch. 270; L. 1914, ch. 337; L. 1917. Originally revised from Primary Election Law amended by L. 1900, ch. 225, § 1; L. 1901, ch. 111; L. 1904, ch. 426, § 1.

Consolidators' note.—"Cross (X) mark" is here for the reason that the old method of printing as to the voting marks on the ballot sometimes led their ballots, to add the parentheses to the X, or ends of the arms of the X, or both, with the consequence liable to rejection as having invalidating marks to protest as marked for identification in the would not follow here in the case."

with the same mark

his party affiliation upon the enrollment books of this election district. *Matter of Kirk* (1910), 66 Misc. 535.

As to who are entitled to enroll and vote at primaries, see Report of Atty.-Gen. (1903), 354; (1904), 269, 292.

Enrollment envelopes should be numbered. Report of Atty.-Gen. (1908), 536.

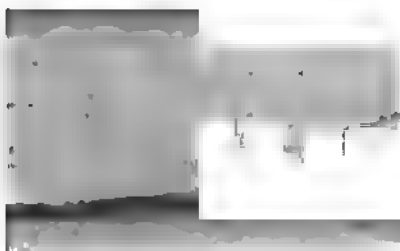
§ 8. Delivery of enrollment blanks to voters on days of registration.

When, in any political subdivision of the state, a voter shall, at any of the regular meetings for registration in any year, present himself personally to the board of election inspectors in any election district for registration, or if, where his registration was not required to be personal and he was registered without personal application, he shall present himself personally to such board for enrollment only, his name and residence address shall be entered at the proper place in the two original enrollment books for that district. After he shall have been registered, and not before, as a qualified voter of that election district for the next ensuing general election, the board of election inspectors, or a member thereof, shall forthwith and before such voter leaves the place of registration, enter his enrollment number, beginning with number one for the first voter enrolled on the first day, and so on in numerical order, opposite his name, in the first column of the registration books and the enrollment books, and shall write the name of the voter on the blank having the enrollment number which shall be opposite his name on the registration and enrollment books, and shall fill in the other blank spaces on the enrollment blank, and shall deliver to such voter an enrollment blank having his name on it. No voter shall be given more than two enrollment blanks in any event, nor more than one blank unless he shall spoil, deface, improperly mark, or otherwise destroy the first blank given him. In case a second blank is given him, the member of the board of election inspectors in charge of the enrollment books shall draw a line through such voter's enrollment number in the first column in said enrollment and registration books, and shall insert in such space in said column the number which shall be upon the new blank to be given him, which number shall always be the lowest number of the enrollment blanks then unused in such election district.

Derivation: Formerly § 27. Renumbered and amended by L. 1911, ch. 891, § 9; and amended by L. 1916, ch. 537, in effect May 15, 1916. Originally revised from Primary Election Law, § 3, pt. of subd. 2, as amended by L. 1900, ch. 225, § 2; L. 1906, ch. 454, § 2.

Registration is not personal

When, in any town or village in which not required, or in an election district a territory in which such personal registration is required, a registered voter whose registration was not to be personal, and who was not enrolled or shall present himself to the board of election in the election district at a general election for the purpose of voting an official ballot to be voted thereat, his name shall be entered at the proper place in the original list for that district. After he shall have voted, the clerk, inspectors, or a member thereof, shall forthwith, when the voter leaves the polling place, write his name on a blank having the lowest number of the blanks in the election district, shall fill in the other blank space on the enrollment blank, shall deliver to him an enrollment blank with his name on it and enter opposite his name in the registration and enrollment books the number of the blank given to him. No voter shall be given more than one enrollment blank, nor more than one blank unless he shall properly mark, or otherwise destroy the first blank. In case a second blank is given him, the member of the board of election inspectors in charge of the enrollment books shall enter through such voter's enrollment number in the registration and enrollment books, and shall in the next column the number of the blank given to him.



ment blanks shall be numbered consecutively, beginning with the one succeeding the last number used on the last preceding day of registration.

Derivation: Added by L. 1911, ch. 891, § 10; and amended by L. 1916, ch. 537, in effect May 15, 1916.

§ 10. Enrollment by voters.

Such voter desiring to enroll shall then enter a voting booth in said place of registration or polling place, and, after having closed the door thereof, may make a cross X mark with a pencil having black lead in the circle underneath the emblem of the party of his selection and thereupon fold said enrollment blank so as to conceal the face thereof, and, before leaving the place of registration or polling place, shall forthwith deposit the same, as so folded, in the enrollment box in said place of registration or polling place in the presence of the inspectors of election, without in any way indicating the party with which he has or has not enrolled, and the inspectors shall thereupon enter in the enrollment books in the fifth column thereof the word "yes." If a voter declines to enroll, he may return the blank to the inspector in charge of the enrollment box, and such inspector shall indorse the name of such voter thereon and deposit the same in the enrollment box; and a like entry shall be made opposite his name in the fifth column of the enrollment books. The entries in the enrollment and registration books required by this and the two preceding sections shall be made by a member of the board designated by the chairman.

One mark crossing any other mark at any angle within the circle shall be deemed a cross mark within the meaning of this article.

Derivation: Formerly § 28. Renumbered and amended by L. 1911, ch. 891, § 11; and amended by L. 1916, ch. 537, in effect May 15, 1916. Originally revised from Primary Election Law, § 3, pt. of subd. 2, as amended by L. 1900, ch. 226, § 2; L. 1908, ch. 456, § 2.

Consolidators' note.—"Ballot box" changed to "enrollment box" to correspond with [former] section 31 [now § 14]. The reference to "the preceding" section is required by the new arrangement.

§ 11. Examination, sealing and custody of enrollment boxes.

Before the entry of any enrollment number or the delivery of an enrollment blank to any voter, in any year, the said enrollment box shall be examined by the board of election inspectors and when empty shall be locked and sealed by them in such a manner that should it be opened such seal would be broken; and the same shall remain so locked and sealed until the same shall be opened by the custodian of primary records as hereinafter provided. Said boxes shall be in the charge and keeping of the custodian of primary records at all times except during hours of enrollment.

Derivation: Formerly § 29. Renumbered and amended by L. 1911, ch. 891. § 12; and amended by L. 1916, ch. 537, in effect May 15, 1916. Originally revised from Primary Election Law, § 3, pt. of subd. 2, as amended by L. 1900, ch. 225, § 2; L. 1908, ch. 456, § 2.

Consolidators' note. — "Ballot box" changed to "enrollment box" and "said ballot boxes" to "said boxes," to harmonize with [former] section 31 [now § 14].

§ 12. Certification and secrecy of enrollment occurring on a day of registration.

1. Except as otherwise provided in subdivision two hereof, at the close of the last meeting for registration in each year the board of election inspectors shall severally subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original enrollment books. Such declarations shall be to the effect that the persons shown by such enrollment books are the only persons who registered personally as voters in that district on any of said days of registration, or who, having been registered on any of said days without personal application, thereafter applied for and received enrollment blanks, and such declarations shall set forth the number of the last enrollment blank used on such last day of registration. Immediately upon the close of each day of registra-

tion, and before leaving the meeting place, the board of election inspectors shall publicly inclose the said enrollment books, together with all records pertaining thereto, in a sealed envelope, upon which shall be written or printed in distinct characters the number of the election district. Such envelope shall remain in the custody of the chairman of the board until the meeting on the next day of registration, when it shall be publicly opened. The envelope sealed at the close of the last day of registration shall, within twenty-four hours thereafter, be delivered to the custodian of primary records. Such envelope shall remain sealed until the next Tuesday following the next ensuing day of general election, except that in any election district in which personal registration is not required or comprising territory in a portion of which personal registration is not required such envelope shall be returned to the board of inspectors before the opening of the polls on the day of general election, to be by them opened and used and again delivered to the custodian of primary records as prescribed in section thirteen. No member of the board of election inspectors shall make, or allow to be made, a copy of, or a transcript or statement from, the enrollment books.

2. In a city of over one million inhabitants, at the close of the last meeting for registration in each year the board of election inspectors shall severally subscribe and verify four declarations, one of which shall be printed in or attached to each of the original registers. Such declarations shall be to the effect that the persons shown by such registers are the only persons who registered personally as voters in that district on any of said days of registration and shall set forth the number of the last enrollment blank used on such last day of registration.

Derivation: Formerly § 30. Renumbered and amended by L. 1911, ch. 891, § 13; and amended by L. 1915, ch. 678; L. 1916, ch. 537, in effect May 15, 1916. Originally revised from Primary Election Law, § 3, pt. of subd. 2, as amended by L. 1900, ch. 225, § 2; L. 1908, ch. 456, § 2.

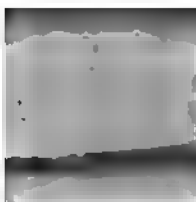
stodian of primary records as hereinafter
all be in the charge and keeping of the
records at all times except during hours of ei

Derivation: Formerly § 29. Renumbered and amended
§ 12; and amended by L. 1916, ch. 537, in effect
revised from Primary Election Law, § 3, pt. of subd. 2
ch. 225, § 2; L. 1908, ch. 456, § 2.

Consolidators' note. — "Ballot box" changed to "enrolled
ballot boxes" to "said boxes," to harmonize with [for
§ 14].

§ 12. Certification and secrecy of enrollment and of registration.

1. Except as otherwise provided in subdivision 2,
at the close of the last meeting for registration in each
of election inspectors shall severally subscribe and make
declarations, one of which shall be printed in one of
of the original enrollment books. Such declarations shall have
effect that the persons shown by such enrollment books to be
persons who registered personally as voters in the
of said days of registration, or who, having been
of said days without personal application, thereupon
received enrollment blanks.



tion, and before leaving the meeting place, the board of election inspectors shall publicly inclose the said enrollment books, together with all records pertaining thereto, in a sealed envelope, upon which shall be written or printed in distinct characters the number of the election district. Such envelope shall remain in the custody of the chairman of the board until the meeting on the next day of registration, when it shall be publicly opened. The envelope sealed at the close of the last day of registration shall, within twenty-four hours thereafter, be delivered to the custodian of primary records. Such envelope shall remain sealed until the next Tuesday following the next ensuing day of general election, except that in any election district in which personal registration is not required or comprising territory in a portion of which personal registration is not required such envelope shall be returned to the board of inspectors before the opening of the polls on the day of general election, to be by them opened and used and again delivered to the custodian of primary records as prescribed in section thirteen. No member of the board of election inspectors shall make, or allow to be made, a copy of, or a transcript or statement from, the enrollment books.

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Derivation: Formerly § 30. Renumbered and amended by L. 1911, ch. 801, § 13; and amended by L. 1915, ch. 678; L. 1916, ch. 537, in effect May 15, 1916. Originally revised from Primary Election Law, § 3, pt. of subd. 2, as amended by L. 1900, ch. 225, § 2; L. 1908, ch. 456, § 2.

the board of election inspectors
and verify duplicate declarations, one of
and attached to each of the original e
declarations shall be to the effect that the
enrollment books whose enrollment numl
last number used on the last preceding da
stitute all of the persons voting in that di
election whose registration was not person
after such registration, applied for enrollme
tration. They shall inclose such enrollment bo
records pertaining thereto, in a sealed envelop
be written or printed in distinct characters the
tion district, and shall within forty-eight hours
such general election deliver the same to the cu
records. Such envelope shall remain sealed u
Tuesday. No member of the board of electio
make, or allow to be made, a copy of or a trans
from the enrollment books.

Derivation: Added by L. 1911, ch. 891, § 14; and
ch. 537, in effect May 15, 1916.

14. Opening of enrollment box and completio

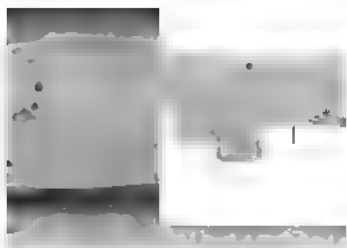
It shall be the duty of the board of inspect
the close of the r

the said box shall not be opened nor shall any of the blanks be removed therefrom until the Tuesday following the day of general election in that year. Such box shall then be opened by the custodian of primary records, and the blanks contained therein shall be removed thereupon by said custodian, and the name of the party designated by each voter under such declaration shall be by said custodian entered against the name of such voter in the appropriate column of the signature copy of the register in a city having more than one million inhabitants, and of the enrollment books elsewhere for the election district in which such voter resides. Such enrollment shall be completed before the succeeding fifteenth day of February in each year. If cross marks are found in more than one of the circles, or if no cross marks are found in any of the circles of any enrollment blank, the voter who used the enrollment blank thus deficient shall not be deemed to be enrolled, and words indicating the reason why such enrollment is not transcribed shall be entered against the name of such voter in the signature copy of the register in the column reserved for the entry of party enrollments, in any city of over one million inhabitants, and elsewhere in the sixth column of the enrollment books. When all of the enrollment shall be transcribed from the blanks to the enrollment books or register, the custodian of primary records shall subscribe and verify a declaration or identical declarations, one of which shall be printed in or attached to each of the said original enrollment books or registers, which declaration shall be to the effect that he has correctly and properly transcribed the enrollment indicated on the blank of each voter to the said enrollment books or register, as herein provided.

Derivation: Formerly § 31. Renumbered and amended by L. 1911, ch. 891, § 15; and amended by L. 1915, ch. 678; L. 1916, ch. 537; L. 1917, ch. 703, in effect June 1, 1917. Originally revised from Primary Election Law, § 3, subd. 3, as amended by L. 1906, ch. 227, § 1.

...the ...

[illegible]



They shall be kept on file for one year from the day of the next ensuing official primary.

Added by L. 1914, ch. 244, in effect Apr. 8, 1914.

See, generally, Matter of Werther (1916), 94 Misc. 681, 158 N. Y. Supp. 321.

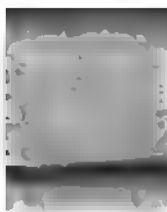
§ 14-c. Special enrollment for certain voters failing to enroll on election or registration days in the year nineteen hundred and sixteen.

Any voter who was a member of the national guard of the state enlisted in the military service of the United States on the Mexican border or elsewhere and who failed to enroll at the general election held on the seventh day of November, nineteen hundred and sixteen, or upon any day of registration preceding such election by reason of his absence on such service from the election district in which he would have been entitled to enroll on such election day or registration days, may at any time between the first and thirtieth days of June, both inclusive, in the year nineteen hundred and seventeen, become specially enrolled in any party and have his name added to the original enrollment books in the district in which he resides in the manner following:

He shall make and acknowledge before an officer authorized to take the proof or acknowledgment of deeds to be recorded and file or cause to be filed with the custodian of primary records a statement embodying a declaration in substantially the following form, the blanks being properly filled in:

" I,, do solemnly declare that I reside at (here insert residence address), and am a resident and duly qualified voter of the election district of the assembly district (or of the ward of the city of), (or of the town of) of the county of; that during the months of October and November I was a member of company, regiment, national guard of the state of New York, enlisted in the military service of the United States and stationed at in the;

... party name shall be inserted in the spaces provided therefor. A blank for such application shall be provided by the custodian on demand to any person desiring to specially enroll. The mailing of such statement and a point within the jurisdiction of such custodian at his office, properly sealed with wax, or after the first day of June and before the nineteenth hundred and seventeen, shall be a sufficient compliance with the requirements of this section. Upon receipt of such statement the custodian of primary records shall enroll the party of his choice in the original enrollment for the proper election district in the same manner as upon a blank deposited on one of the days of registration of general election; except that above the surname shall be written the word "special," and above the date of the filing or postmark of mailing such application. Voters specially enrolled hereunder by the custodian of primary records an enrollment number, for the first voter thus specially enrolled, will follow the highest number on the enrollment already enrolled in such election district. The custodian of primary records shall indorse the corresponding number of the voter to whom such number is given. Statements and applications shall be public records and may be copied by any person.

**§ 15. Enrollment for a new political party.**

Where an independent body has become a party at a general election, an enrollment of the members of such party shall be made in the manner herein prescribed. ~~After the~~ ^{the} first day of January and not later than the second Tuesday in the year next succeeding that in which such independent body became a party, or in the year nineteen hundred thirteen not later than June first, the custodians of the primary records throughout the state shall cause to be mailed to all voters whose names appear upon the latest registration lists of their respective districts and who are not enrolled as members of any political party, at their respective post-office addresses, enrollment blanks printed on white paper, on the face of which shall be printed the following, or the substance thereof, the blanks to be filled in in type so far as possible:

“ Primary enrollment for year city (or village or town) of; county of; assembly district (or ward or town); election district; enrollment number; name of voter ”

I, the undersigned, do solemnly declare that I voted in the above election district at the general election held (insert date of last general election); that I still reside in said election district; and that my residence is at the address as given below; that I am in general sympathy with the principles of the party in the circle beneath the name and emblem of which I have made a cross X mark, and supported generally at the said general election the nominees of the said party, then an independent body; and that I have not enrolled with any other party since the first day of January (here insert the year in which the general election was held).

sign here)

Residing at (The voter here inserts his residence)

" Make a cross (x) mark in the circle and party with which you wish to enroll for the coming in its primary elections during the year _____ your name and address in the blanks immediately below the circle."

The circles under the emblems shall be on separate pieces of paper and in them nothing shall be printed. The parties shall have the same as those which were on the official ballot of the independent body, respectively, to which this section refers. Over such emblem shall be printed in type clearly legible the name of the party represented by such emblem. The ballot shall have thereon only the emblem of those parties which are independent bodies and became parties at the general election and shall have the following printed across the top of the enrollment blanks: " Fill out this blank and return on or before the first Tuesday of January _____ and there insert the current year, to _____, the name and title of the custodian of primary records, and the post office address, with street and number, of the custodian of primary records."

Each voter who shall have properly signed and filled out the blank and shall have either mailed or delivered to the proper custodian of primary records on or before the first day of January of the then current year or in the year next thereafter, on or before January first of the then next year, to the proper and designated party, subject to a full and complete audit after application to enrollment books, shall be entitled to the custodian of primary records."



election district in which such voter resides the name of the party with which such voter shall thus enroll. The postmark on any envelope containing such an enrollment blank shall be deemed conclusive proof of the date on which the same was mailed.

One additional copy of the said enrollment blank shall be furnished to each voter who applies therefor. Additional copies shall be furnished at the rate of twenty-five cents per hundred to any person.

The enrollment blanks as soon as received by the custodian of primary records from the voter shall be public records and shall be open to inspection and copying at any time by any person. They shall be kept on file for one year from the first Tuesday in June.

Derivation: Added by L. 1911, ch. 891, § 16, amended by L. 1913, ch. 587.
In effect May 17, 1913.

§ 16. Duplicate enrollment books.

The custodian of primary records shall annually provide a true copy, duly certified, for the state superintendent of elections and for each party of so much of the said enrollment books as will give the names, addresses and political affiliation of each voter. The said custodian shall, in the month of February of each year, deliver one such certified copy to the state superintendent of elections and the chairman of the proper county committee of each such party. Such certified copies shall conform in all respects to the form of the original enrollment books, or to the portion transcribed, as the case may be. The custodian of primary records shall certify to such chairman that each such copy is a correct

§ 17. Use of duplicate enrollment books

At all unofficial primary elections of a district, of the enrollment books shall be used, and a person shall not be permitted to take part in such primary election as a voter of that district, unless his name is upon the certified enrollment book for that district, showing that he is enrolled in the primary election he seeks to participate in.

Derivation: Formerly § 37. Renumbered and amended by L. 1901, ch. 891, § 18, in effect Nov. 15, 1911. Originally revised by Revision Law, § 3, pt. of subd. 7, as amended by L. 1903, ch. 674, § 3, and L. 1907, ch. 744, § 1; L. 1908, ch. 674, § 3.

§ 18. Use of original enrollment books at official elections

The original enrollment books shall be used at all official elections, and shall be delivered, as provided in the election laws, to the proper boards of election inspectors immediately before the opening of the polls on each official primary day, and to the custodian of primary records forthwith, for use in the canvass of the votes. Such enrollment books shall be retained by the custodian of primary records for a period of one year after the canvass of the votes.

effect on the first day of January following the days of registration on which they are begun, and shall, with any additions or changes made as herein provided, remain in force until the first day of the following January, when they shall be superseded by the new enrollment books, as herein provided.

Derivation: Formerly § 38. Renumbered and amended by L. 1911, ch. 891, § 19; amended by L. 1914, ch. 244, in effect April 8, 1914. Originally revised from Primary Election Law, § 3, subd. 8.

§ 19. Right to enroll and vote at primaries.

No voter who has once enrolled in a political party shall be permitted to enroll in another political party before the first day of the next registration. Only voters enrolled as provided in this article shall be entitled to participate in the official primary elections of their respective parties. No voter shall take part in any primary election of any party other than the party in which he shall at the time be enrolled.

Derivation: Formerly § 39. Renumbered and amended by L. 1911, ch. 891, § 20, in effect Nov. 15, 1911. Originally revised from Primary Election Law, § 3, pt. of subd. 9.

Restrictions upon enrollment. — In an action by an elector where the complaint shows that the county committee of the party to which he belongs has assumed to delegate to boards in the respective districts and wards of the county, discretionary power to enroll and to strike from the rolls the names of voters, and thereby prevent voters belonging to the party from voting at its primary election, such elector is threatened with an injury to his political rights which is beyond remedy, and an injunction pendente lite shall be granted. *Brown v. Cole* (1907), 54 Misc. 278, 104 N. Y. Supp. 109.

A member of a political party may maintain a suit to restrain a county committee of that party from carrying out an enrollment system promulgated by it, although he is not a member of the county committee. *Brown v. Cole* (1907), 54 Misc. 278, 104 N. Y. Supp. 109.

Who entitled to enroll, etc. — See note to Election Law, § 7.

§ 19-a. Special enrollment after moving.

If, after being enrolled as a member of a party in one election district, by original enrollment, a voter shall move into another election district in the same assembly district, he may, at any time between the first day of February of any year and the thirtieth day before the annual primary day, become enrolled therein as a member of the same party by making an affidavit

...and desires to be enrolled therein
party. Except as hereinafter provided, a
affidavit the custodian of primary records
of such voter in the original enrollment book
tion district, specifying the district from which
and his new residence address, and shall
opposite the entry of his name in the
books of the election district from which he
the election district to which his name is transferred,
however, that in any city in which the register
stitute also the enrollment books, as now or
by law, such voter shall appear before the
records and deliver such affidavit in person
questions concerning facts affecting his identity
may deem necessary. Such custodian shall compare
if any, of the voter on the affidavit with his
register of electors. If the voter be unable to write
shall submit to him, in lieu of recording his signature,
required for the identification statement when
registry is unable to write. In such case, if
voter be transferred and if he be able to write
his name in the appropriate column of the book
to which he is transferred. It is also provided
if such a transfer be made, all entries relating
of the voter on the original books, and on the
and enrollment where...

ture test as may be necessary to satisfy the custodian of his identity. Where an applicant for transfer is required either by the provisions of this section or by the custodian of primary records to appear in person, in any political subdivision of the state, such custodian shall not transfer the applicant's enrollment unless satisfied of his identity. Such transfer of enrollment shall be made but once during any year for which the original enrollment was made.

Nothing contained in this section shall be deemed to qualify a person to vote at an official primary in the district to which his enrollment is transferred if he be not a resident of such district at the time of the primary and for thirty days theretofore, and he shall be subject to challenge as provided in section seventy-two.

Added by L. 1916, ch. 537, in effect May 15, 1916.

§ 20. New or amended enrollment books for changed districts.

If in the interval between the days of registration and the day of the fall primary in the succeeding year, a new election district shall be created, or the boundaries of an election district shall be changed, and such change or the creation of such new district is to take effect within such interval, the custodian of primary records shall immediately prepare new enrollment books for such district from the enrollment books of the districts covering any part of the same territory, which new enrollment books shall be given the proper descriptive number of the assembly district or ward, or designation of the town, and the descriptive number of the election district, within which they are to be used but shall in other respects be in the same form and exhibit the same facts as the enrollment books then in force in the territory comprised within such new or changed district and shall contain the names of all the voters, as shown by the enrollment books then in force in such territory, who are the enrolled voters of the respective political parties within, and who are shown by such books to be residents of such new or changed election district. If an election district, whose boundaries are not changed, be given a new number or become included in a different assembly district, ward or town, within such interval, such custodian, before the next official primary at which the enrollment books for such new or changed election district may be used,

... a new enrollment therein takes effect
visions of this article, and the custodian o
be charged with the same duties concerni
the preparation of duplicate sets thereof or
as are provided in this article with respec
enrollments begun on the days of registratio
not be construed to authorize any person to
changed district if he shall have ceased to re
thereof at the time of the preparation of such
or at the time he offers his vote at an official p.

Former § 20 repealed by L. 1914, ch. 244; new § 20 ad
in effect May 15, 1916.

**§ 21. Enrollment books to be public records;
rollment.**

The enrollment books herein provided for and
filed on enrollment shall be public records, and
inspection and copying at any time by any pers
period during which they are required to remain
provided. It shall be the duty of the custodian o
to certify to the correctness of any transcript o
books, or of any part thereof, on the payment of
twenty names contained in the transcript. When
of primary records is a salaried officer, the fee
for certifying such transcripts shall be paid into th
Such a certified transcript, containing the name
enrollment of any voter, shall be sufficient eviden
ment. The custodian of primary

by voters shall be public records and shall be kept on file until one year thereafter. No person shall be required to enroll, nor shall his failure to do so affect his right to register for the purpose of voting at any election.

Derivation: Formerly § 41. Renumbered and amended by L. 1911, ch. 891; amended by L. 1913, ch. 820, in effect Dec. 17, 1913. Originally revised from Primary Election Law, § 3, pt. of subd. 9.

Consolidators' note.—The provision relating to acknowledgments is omitted, being already included in the part of this section which has been made section 32; also the provision prohibiting enrollments in another party before the next registration days, which has been included in new section 39; also the provision limiting special enrollments to electors "who registered as electors in the same city or village in the last preceding year, or who have become of age after the last preceding general election, and whose names are not already on the rolls of any party," this provision being inconsistent with that part of old subdivision 4 of section 3 which is here made section 33, and which permits special enrollments in territory formerly not subject to this article but which shall have been annexed to cities or villages subject to it.

Right to make copies of enrollment books.—A member of the Republican organization of Erie county, is entitled to make a copy of enrollment books, that being included in the right to an "inspection," where, in so doing, he is not taking unnecessary time or interfering with the right of any other member of the party to examine such books. *People ex rel. Spire v. General Committee* (1898), 25 App. Div. 339, 49 N. Y. Supp. 723.

§ 22. Publication of enrollment.

The board of elections of every city of the first class containing within its boundaries more than one county shall and the board of elections of any county containing a city of the first or second class and when authorized by the board of supervisors the board of elections in any other county may, in its discretion, cause to be published, for each assembly district, within a county over which such board has jurisdiction, in pamphlet form, and at public expense a transcript of the enrollment books of each election district in the assembly district, omitting all entries except the names, the residence addresses, and the party, if any, recorded opposite the respective names. Where an independent body shall hereafter become a party at a general election held after the enrollment, of which the lists may have been published under the provisions of this section, by the board of elections, a transcript of all entries upon the enrollment books added thereto under the provisions of section fifteen relating to enrolled voters of such new party, shall be published in the manner hereinabove provided between the first

...ance of section sixteen of this cha

Derivation: Formerly § 43. Renumbered an
§ 24, in effect Nov. 15, 1911. Originally revised
§ 3, subd. 11, as added by L. 1904, ch. 350.

Sufficiency of proof on application to strike
question of the sufficiency of an affidavit, on an
from the primary enrollment, is of such public in
hear the case although the primary election has
(1907), 117 App. Div. 621, 102 N. Y. Supp. 851, aff'd

Where an elector, served by mail at his latest ka
appear in a proceeding to remove his name from
showing his removal from that residence given, is
occupant, janitor or proprietor of the premises but t
in the vicinity, and the affiant has no personal know
actually moved from the election district as well, but
as a conclusion, the affidavit is insufficient although
it mandatory duty of the court to strike the nam
Matter of Titus (1907), 117 App. Div. 621, 102 N. Y. S
585.

Although it seems that the Legislature may prescri
lations applying to all the primary elections as it does
yet, when the Legislature has not made adequate
elector from having his name stricken from the roll
the statute should be so construed as to afford him t
Matter of Titus (1907), 117 App. Div. 621, 102 N. Y. S
585.

As to the sufficiency of proof on application to strike
see also Matter of O'Brien (1907), 117 App. Div. 621
aff'd 188 N. Y. 585; Matter of McGuire (1907), 117
Supp. 856, aff'd 188 N. Y. 585.

§ 24. Correction of enrollment with
sympathy with

was enrolled) may present proof thereof by affidavit to the chairman of the county general committee of the political party with which the voter enrolled, and the chairman of such county general committee shall issue a notice requiring the person against or as to whom the proceeding is instituted to show cause before such chairman of the county general committee, or a subcommittee appointed by such chairman, at a time and place specified in such notice why his name should not be stricken from such enrollment books. Such notice shall be returnable on a day at least fifteen days before a primary election, and a copy of the affidavit shall be served on the person against whom the proceeding is instituted and on the custodian of primary records at least forty-eight hours before the return thereof, either personally or by depositing the same in the post-office of the city in which such election district is located, in a postpaid wrapper or envelope addressed to the custodian of primary records at his office, and to such person by his name at his present address, if known, and otherwise at the address which appears in the enrollment books for such election district. The chairman of such committee shall in his discretion personally hear the persons interested in the proceeding or appoint a subcommittee to take testimony, and in such event the action of the subcommittee shall not be final unless approved of by the chairman of such county general committee, and if it appears by sufficient evidence that such person is not in sympathy with the principles of the political party with which such person enrolled, the chairman of the county general committee shall cause to be filed a certificate with the board of elections or with the custodian of primary records setting forth reasons why the name of such person shall be stricken from the enrollment books, together with a record of the proceedings had in the matter. It shall be the duty of the board of elections or the custodian of primary records to make application to the supreme court or to any justice thereof in the judicial district, or to a county judge of the county, in which such election district is located, for an order requiring the person against or as to whom the proceeding is instituted to show cause before such court, justice or judge, at a time and place specified in such order, why the decision of the chairman of such county general

... affidavits or other evidence as to the proceedings were conducted, and shall determine if said proceeding was fairly conducted and whether or not it was made upon sufficient grounds upon which to approve or disapprove such finding as shall be required to do substantial justice to the party in the proceeding was instituted and without regard to the merits. The court, justice or judge upon application of the chairman of such county general convention or order to the board of elections or to the custodian of the records requiring the name of the voter to be stricken from the registration books.

Derivation: Formerly § 44. Renumbered and amended § 25, in effect Nov. 15, 1911. Originally revised from § 3, subd. 12, as added by L. 1904, ch. 488, § 1.

§ 25. Investigation of enrollment.

Whenever the state superintendent of elections shall find it shall be the duty of the chief of police and in every city of the state to forthwith cause an investigation to be made of the name enrolled in his precinct to be made at the office of the state superintendent of elections, at his office, or at such other office as the state superintendent of elections by written designation any case of false enrollment shall be the duty of the board of elections of the city to furnish to the chief of police and police a list or typewritten list of the enrolled voters of the precinct and necessary facilities, including clerical assistance, to the chief of police or to the

ARTICLE 3.*

PARTY ORGANIZATION.

Section 35. Party committees.

- 36. State committee.
- 37. County committee.
- 38. Election of members of state and county committees.
- 39. Formation of committees other than state or county committees.
- 40. Organization and rules of committees.
- 41. Review of election of committees.
- 42. Removal of member of committee.
- 43. Vacancies in state or county committees

§ 35. Party committees.

Party committees shall consist of a state committee, county committees, and such other committees as the rules and regulations of the party may provide.

Derivation: Added by L. 1911, ch. 891, and amended by L. 1913, ch. 820, in effect Dec. 17, 1913.

Committees, and rules of parties.—This subject was covered in Election Law, §§ 64 and 65, which were repealed by L. 1911, ch. 891. The following decisions were rendered under those former sections and are given here for whatever historical or other value they may have:

Removal of member of general committee.—The members of a general committee of a political party cannot remove one of their members who has been duly elected as provided in the Primary Election Law, and a member whose removal has been attempted may be restored by mandamus or his attempted removal may be enjoined. *People ex rel. Coffey v. Democratic General Committee of Kings* (1900), 164 N. Y. 335, 51 L. R. A. 674, rev'g 52 App. Div. 170, 65 N. Y. Supp. 67, and aff'g 31 Misc. 350, 65 N. Y. Supp. 418.

Where the state committee of the democratic party, which is the executive body of that party in the state, has no constitution or by-laws, and is elected by delegates from the respective senatorial districts, and no power resides anywhere to reject their choice, it will be enjoined from expelling, by a majority of said committee, the representatives of senatorial districts in Kings county. *Cummings v. Bailey* (1907), 53 Misc. 142, 104 N. Y. Supp. 233, aff'd 120 App. Div. 892.

Certificate of board of elections as to the election of a member of a county committee is conclusive, and the committee is without power to eject him on the ground that he has not been legally elected. *People ex rel. Hahn v. Republican County Committee* (1908), 124 App. Div. 427, 108 N. Y. Supp. 1051, aff'd 192 N. Y. 568.

Power to select an election officer lies in the general committee of a party and the court will not interfere. *Matter of Sheehan v. McMahon*

* Schedule of sections thus amended by L. 1911, ch. 891, and L. 1913, ch. 820, in effect Dec. 17, 1913.

district, and desires to be enrolled therein
party. Except as hereinafter provided,
affidavit the custodian of primary record
of such voter in the original enrollment bo
tion district, specifying the district from w
and his new residence address, and shall
opposite the entry of his name in the
books of the election district from which he
the election district to which his name is tr
however, that in any city in which the reg
stitute also the enrollment books, as now
by law, such voter shall appear before the
records and deliver such affidavit in pers
questions concerning facts affecting his identi
may deem necessary. Such custodian shall co
if any, of the voter on the affidavit with h
register of electors. If the voter be unable to
shall submit to him, in lieu of writing his sig
required for the identification statement, wh
registry is unable to write. If such voter, if
voter be transferred and if he be unable to writ
his name in the appropriate column of the reg
to which he is transferred. It is further provided
if such a transfer be made, all entries relating
of the voter on the original books, affidavits
and enrollment books.

ture test as may be necessary to satisfy the custodian of his identity. Where an applicant for transfer is required either by the provisions of this section or by the custodian of primary records to appear in person, in any political subdivision of the state, such custodian shall not transfer the applicant's enrollment unless satisfied of his identity. Such transfer of enrollment shall be made but once during any year for which the original enrollment was made.

Nothing contained in this section shall be deemed to qualify a person to vote at an official primary in the district to which his enrollment is transferred if he be not a resident of such district at the time of the primary and for thirty days theretofore, and he shall be subject to challenge as provided in section seventy-two.

Added by L. 1916, ch. 537, in effect May 15, 1916.

§ 20. New or amended enrollment books for changed districts.

If in the interval between the days of registration and the day of the fall primary in the succeeding year, a new election district shall be created, or the boundaries of an election district shall be changed, and such change or the creation of such new district is to take effect within such interval, the custodian of primary records shall immediately prepare new enrollment books for such district from the enrollment books of the districts covering any part of the same territory, which new enrollment books shall be given the proper descriptive number of the assembly district or ward, or designation of the town, and the descriptive number of the election district, within which they are to be used but shall in other respects be in the same form and exhibit the same facts as the enrollment books then in force in the territory comprised within such now or changed district and shall contain the names of all the voters, as shown by the enrollment books then in force in such territory, who are the enrolled voters of the respective political parties within, and who are shown by such books to be residents of such new or changed election district. If an election district, whose boundaries are not changed, be given a new number or become included in a different assembly district, ward or town, within such interval, such custodian, before the next official primary at which the enrollment books for such new or changed election district may be used,

constituted by the election of county committee, party, or election district proportionate to the party vote. If an additional member shall be elected at assembly or aldermanic district in such election district, the committee shall by its rules and regulations provide for the county, no additional members are provided for, the voting power of each member shall be on the basis of such party vote. In a county in which additional members are provided for, on the basis of the party vote from assembly or aldermanic districts, each member of the committee shall have one vote. Each member of the committee shall be an enrolled voter of the party residing in the assembly or aldermanic district from which or in the assembly district in which he is elected.

In case of the death, declination, disqualification, resignation, removal from office of a member of the committee, or the failure to elect a member, as by reason of a vacancy in such county committee caused by the expiration of the term of office of a member, the remaining members of such county committee shall elect a member to fill the vacancy in section forty-three of this chapter.

Added by L. 1913, ch. 820; amended by L. 1916, ch. 100, § 1, in effect June 1, 1917.

Only an enrolled voter is eligible as a member of a county committee.

§ 38. Election of members of state and county committees.

Members of the state and county committees shall be elected at official primary elections as herein provided for.

Members of the state committee shall be elected biennially in each even numbered year. Members of county committees shall be elected annually.

Members of both committees shall be elected at fall primaries, except that in a year when a president of the United States is to be elected, such members of committees shall be elected at the spring primary. The members of either committee shall hold office until the election of their successors.

Added by L. 1911, ch. 801, § 27; amended by L. 1912, ch. 4; amended and renumbered by L. 1913, ch. 820, in effect Dec. 17, 1913.

In general.—See note to Election Law, § 35; Matter of Werther (1916), 94 Misc. 691, 153 N. Y. Supp. 321.

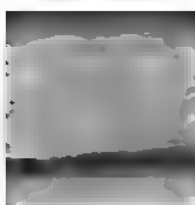
Although the state committee may adopt any laws and regulations relative to its management and control providing they are not inconsistent with the provisions of law and are within the powers given the committee by the state convention, it can adopt no rules relative to the manner of its election. While it has been held that a state committee is the supreme political authority of a party within the state, this is subject to the above limitations. It derives its authority from the convention that creates it subject to law. *Report of Atty.-Gen., (1911), Vol. 2, p. 677.*

Repetition of names of candidates for members of party committees on ballots.—Where a party organization has selected the assembly district as its unit of representation, the members of the county committee elected by assembly districts become ipso facto members of the judicial, senatorial, congressional, assembly, municipal court, aldermanic, city and borough district committees, and a single appearance of the names of the candidates for the county committee upon the primary ballot is sufficient, except where assembly districts have been subdivided so that they are entitled to representation in two or more of such committees. In such cases it is the duty of the party organization to establish rules, so that in the assembly districts so subdivided the ballot should contain the names of the candidates for membership upon the county committee, and such names should be repeated as often as there are other committeemen to be elected for smaller units than the entire assembly district. *Matter of Koenig v. Brist (1912), 149 App. Div. 68.*

Organization and rules of com

Every state and county committee, si
their election meet and organize by t
treasurer and secretary, and such othe
provide, and within three days thereaf
of state and the board of elections of the
the names and post-office addresses of suc

Each committee may prepare rules and
ernment of the party and the conduct
within its political subdivision, which ma
of dues. . Within three days after the adop
regulations a certified copy of the same shal
by the secretary with the custodian of pri
political subdivision for which such committ
a certified copy with the secretary of state.
tinue to be the rules and regulations for the
are amended or new rules adopted. Such
may be amended from time to time by a ma
mittee, provided a copy of the proposed am
with the notice of the meeting at which such
proposed, such notice to be not less than five
ing, and to be mailed at the post-office addre
the committee. Until the adoption of such
the rules and regulations

**§ 41. Review of election of committees.**

The election of members to any party committee may be reviewed by summary proceedings before the supreme court or a justice thereof, as provided for in section fifty-six of this act, upon the petition of any person qualified to vote at the primary election of the party which such committee represents.

Added by L. 1911, ch. 891, and amended by L. 1912, ch. 4, renumbered by L. 1913, ch. 820, in effect Dec. 17, 1913.

Recount unauthorized.—In a proceeding under §§ 41, 56, to review the actions of custodians of primary records the court can review only such action as the custodians themselves have taken and correct errors which they have made. The statute does not authorize a recount of the votes and a declaration of a different result based upon such recount. *Matter of Tenjost* (1915), 169 App. Div. 300, 154 N. Y. Supp. 706; but see *Matter of Tenjost* (1916), 171 App. Div. 129; see note to § 56, post.

§ 42. Removal of member of committee.

A member of a party committee may be removed by such committee, for disloyalty to the party or corruption in office, after notice and a hearing upon written charges, to be heard by the committee or a subcommittee thereof appointed for that purpose, which shall report its findings to the full committee. The action of any committee in removing a member thereof as herein provided for may be reviewed in a summary proceeding before the supreme court or by a justice thereof, upon a petition of the person so removed.

Added by L. 1911, ch. 891, and renumbered by L. 1913, ch. 820, in effect Dec. 17, 1913.

In general.—See note to Election Law, § 35.

§ 43. Vacancies in state or county committees.

Except as otherwise provided in this article, where a vacancy occurs in any state or county committee, such vacancy shall be filled by the remaining members of said committee by the selection of

ARTICLE 4.*

PARTY NOMINATIONS AND DESIGNATIONS.

Section 45. Direct nomination of candidates for public office.

- 46. Designations; how made.
- 48. Designation by petition.
- 49. Filing of designations.
- 50. Declination by person designated.
- 51. Certification by secretary of state.
- 52. Vacancies in designations, how filled.
- 53. Delegates to national party conventions.
- 54. Presidential electors.
- 55. Existing state and county committees continued.
- 55a. Objections to designating petitions.
- 56. Contests; judicial review.
- 58. Official primary ballot.

§ 45. Direct nomination of candidates for public office.

Party nominations for all offices to be filled at a general election, except town, village and school district offices and electors of the president and vice-president of the United States, shall be made at the fall primary next preceding such general election by the enrolled voters of the party as in this chapter provided. Nominations of party candidates for town, village and school district offices shall be made in the manner prescribed by the rules and regulations of the county committee of the county wherein such town, village or school district is located. Nominations of party candidates for city offices to be filled at an election held at a different time from the general election shall be made directly at unofficial primaries by enrolled party voters.

Nothing contained in this chapter shall prevent a party from holding party conventions, to be constituted in such manner, and to have such powers in relation to formulating party platforms and policies and the transaction of business relating to party affairs, as the rules and regulations of the party may provide, not inconsistent with the provisions of this chapter. Delegates to any such convention and members of party committees, other than members

* Schedule of sections thus amended by L. 1911, ch. 891, and L. 1913, ch. 820, in effect Dec. 17, 1913.

of state and county committees, shall not be chosen at official primaries or otherwise at public expense.

Added by L. 1911, ch. 891, and amended by L. 1913, ch. 820 and L. 1914, ch. 5, in effect Feb. 12, 1914.

Party nominations. - This subject was covered in Election Law, § 120, which was repealed by L. 1911, ch. 891. The following note given in the 1911 Manual under § 120 is inserted here for whatever historical or other value it may have:

Application. - This section applies to all organized parties, and it puts a mere local and isolated party on the same footing as a State party, its local branches, sections and connections. *Matter of Wheeler* (1894), 10 Misc. 55, 30 N. Y. Supp. 854.

Change of election returns to show that party polled over 10,000 votes. - The court has no power to compel a county board of canvassers to change the returns of a general election so as to show separately the number of votes cast for the office of governor, in the column and under the emblem of a political party whose candidate for the office of governor was the same as that of another political party, in order that it shall appear from the returns whether or not such first nominated political party polled 10,000 votes for State officers. *People ex rel. Boies v. Board of Canvassers* (1903), 79 App. Div. 514, 80 N. Y. Supp. 25.

Regularity of party nominations. - Where a convention has made one nomination it cannot, while that nomination remains in force, make another. *People ex rel. Simpson v. Police Commissioners* (1894), 10 Misc. 98, 31 N. Y. Supp. 112.

Part of a convention cannot secede from a regular meeting of the nominating party and make nominations on its own account. Nominations must be the act of a party, not of a clique. *People ex rel. Simpson v. Police Commissioners* (1894), 10 Misc. 98, 31 N. Y. Supp. 112.

A candidate cannot claim to be the nominee or representative of a political party unless he has been first regularly nominated by that party, and what constitutes regularity depends upon the usages of the party itself and not upon any rules and regulations which may seem just and proper to courts or judges. *Matter of Redmond* (1893), 5 Misc. 369, 25 N. Y. Supp. 381.

When a political convention has duly nominated and certified a person pursuant to the Election Law its functions are at an end and on the refusal of the nominee to accept the nomination after the certificate is filed, the convention is powerless to reconvene and nominate another person. *Matter of Greene* (1907), 121 App. Div. 693, 106 N. Y. Supp. 425.

Where, upon a refusal of a temporary chairman of a convention to call the roll of the certified members of the convention, another convention is held in the same hall upon a roll call, in which a majority of the legal delegates par-

icipate, the nominee of the latter convention will be deemed regular. *French v. Roosevelt* (1896), 18 Misc. 307, 41 N. Y. Supp. 1080.

A convention is *functus officio* when it reassembles after the time for filing original nominations or nominations to fill vacancies caused by declinations has expired. *Matter of Halpin* (1906), 108 App. Div. 271, 95 N. Y. Supp. 611.

Where a political party has no voters in certain territory forming a part of the congressional district it is not fatal to its rights to nominate by a convention for Congress, that it neither advertised nor held primaries in that territory, as such primaries would have been futile if not impossible. *Matter of Ward* (1902), 36 Misc. 727, 74 N. Y. Supp. 403, *aff'd* 69 App. Div. 616.

Rescinding nomination before adjournment.—Any action taken by a city nominating convention may be rescinded by it before final adjournment. *Matter of Nash* (1901), 36 Misc. 113, 72 N. Y. Supp. 1057.

Factions.—The word "faction," as used in the Election Law, refers to different political organizations in the same party and not to contending members of the same organization engaged in the support of different candidates who are both seeking or claiming a nomination to office from the same political organization. *In re Heacock* (1896), 18 Misc. 311, 41 N. Y. Supp. 161.

Where there are several factions of the same party in the county, the state convention decides which faction shall have the advantage of regularity. The regular faction then becomes entitled to the sole use of the party emblem for its local candidates. Each local faction can have its own emblem for all its own local candidates; but a local faction, not the regular one, having its own local emblem, cannot place under such emblem the names of the candidates nominated by the party at large for state offices. *Fernbacher v. Roosevelt* (1896), 90 Hun, 441, *aff'g* 14 Misc. 199, 35 N. Y. Supp. 898.

Courts will not interfere with contents between factions of a political party unless there has not been an adjudication of the question of regularity by some division of the party which is conceded to be superior in point of authority to the one in which the contention arose. *Matter of Pollard* (1893), 55 N. Y. St. Rep. 155, 25 N. Y. Supp. 385.

No other convention or committee than the one nominating has power to review the nominations and to say which of two rival factions presenting delegates from primaries is the regular one. *Matter of Cowie* (1890), 33 N. Y. St. Rep. 710, 11 N. Y. Supp. 838.

A faction of a political party which has certified to the Secretary of State its local nominations only and which has made no nominations for state offices is not entitled to have the nominees of its party for state offices stand in a separate column with its local nominations. *Matter of Madden* (1895), 148 N. Y. 136.

Although a convention fails to nominate for a certain office, electors are not deprived of their right to vote for such office, but may write on their ballots the name of a person to fill such office. *People ex rel. Goring v. President*, 144 N. Y. 616, *aff'g* 9 Misc. 246, citing *People ex rel. Bradley v. Shaw* (1894), 133 N. Y. 493, 16 L. R. A. 606.

Where a convention fails to nominate a candidate for the office of State Senator, owing to a deadlock, the chairman of the county general committee of the party may call a joint meeting of the county general committee of the Assembly districts comprising the Senate district affected, and of the executive committee of the county general committee, and this joint meeting may nominate a candidate for the office, pursuant to the rule or regulation properly adopted by such general committee. *Mat-*

ELECTION LAW.

(1904), 45 Misc. 132, 91 N. Y. Supp. 889, aff'd 97

nomination made at a primary, notice of which was not a committee or officers of the party, are not valid. Matter of

defined. — The word "committee" as used in subdivision 1 of section 10 of the Election Law does not necessarily mean a committee elected at primary or a county committee of the National Progressive party which provide for unofficial primaries at which delegations which nominate party candidates in the town or city pursuant to such rules, a writ of mandamus may be granted to the board of the town of such county requiring him to receive and record the nomination of the candidates of such party. People v. McConnell (1913), 123 App. Div. 428.

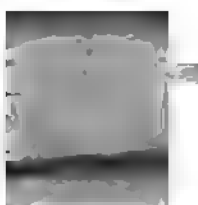
nomination; how made.

nomination of candidates for party nominations or for party officers shall be by petition only, in the manner provided in this chapter.

section 46, as added by L. 1911, ch. 891, repealed and new section 46, ch. 820, in effect Dec. 17, 1913.

functions of committee for purposes of designation.

L. 1911, ch. 891, and repealed by L. 1913, ch. 820, in effect



Name of candidate.	Public office or party position.	Place of residence.	Place of business.
.....
.....
.....
.....

I do hereby appoint (here insert the names and addresses of at least three persons all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand the day and year placed opposite my signature.

Date.	Name of signer.	Residence.	Election district, town or ward.
.....
.....
.....
.....

State of New York, }
County of } ss.:

On this day of in the year before me personally came (here shall be inserted the names of each and every voter appearing and making oath before the said officer) each of whom was to me personally known and known by me to be the voter whose name and place of residence is subscribed by him to the foregoing certificate and each of the foregoing voters being by me duly and severally sworn did make oath that he is a voter and has truly stated his residence, and that it is his intention to support at the polls the candidacy of the person or persons designated for nomination for public office in the foregoing certificate of designation, if the same are nominated.

(Signature and official title.)

2. Any signature to a designating petition for the primary may as an alternative be authenticated by a qualified witness in the same manner as in the case of a nominating certificate for the election, as provided in section one hundred and twenty-three of the election law, the forms and procedure being changed to apply to the primary instead of the election, and with like penalty for any false affidavit, certificate or statement by any person. No signature to a designating petition shall be counted unless authenticated either by acknowledgment or by a witness as aforesaid.

3. A petition for the designation of candidates for party nomination or for election to party position may designate candidates for nomination for one or more public offices, or for election to one or more party positions, or both.

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ns for the designation of candidates for party nomi
lection of candidates to party positions or both
enrolled voters resident within the political subdivi
representation for which the nomination or election
number equivalent to not less than three per centum
er of enrolled voters of the party residing with
division or unit of representation, as determined
g enrollment, provided, however, that for the fe
number of signatures need in no case exceed the fe

Office of United States senator or for any office to l
ters of the state, three thousand signatures;

Office of justice of the supreme court, judge of the
ons in the city of New York, and judge of the ci
f New York, fifteen hundred signatures;

Office to be filled by all the voters of a city containi
n inhabitants, fifteen hundred signatures;

Office to be filled by all the voters of any other cit
of any county or borough containing more than t
ty thousand inhabitants, according to the last pr
ate enumeration, one thousand signatures;

Office to be filled by all the voters of any county or
more than twenty-five thousand and not over two l
ousand inhabitants according to the last preceding
eneration, or of any city of the second class, or of s
r senatorial district, five hundred signatures;

Office to be filled by all the voters of any other co
f the third class or of any assembly district two l

aforesaid his signatures, if they bear the same date, shall not be counted, and if they bear different dates they shall be counted in the order of their priority of date and only so far as he was entitled to make designations. A signature made earlier than eleven weeks before the official primary shall be void and of no effect; but if bearing a date within such period it shall be counted in the first instance by the board or officer with which or whom the petition is offered for filing, subject to judicial review if objections be filed under section fifty-five-a of this chapter.

Added by L. 1911, ch. 891; and amended by L. 1913, ch. 820; L. 1915, ch. 678; L. 1916, ch. 537; L. 1917, chs. 703, 723 and 778, in effect June 1, 4 and 8, 1917. As subd. 5 is amended to read as follows by chs. 723 and 778, and as subd. 1 is amended to read as follows by chs. 703 and 723, the additional changes made in subd. 1 by ch. 703 and in subd. 5 by ch. 723 are not inserted.

Defective petition.—A petition purporting to designate persons as independent candidates for county and ward committeemen is insufficient where it fails to state the time of holding primary election, the ward or county committee for which the candidates are designated, the place of residence of the candidates or the signers and the certificate of acknowledgment does not contain the names of the latter. *Matter of King* (1913), 155 App. Div. 720.

Amendment of defective petition.—Where a petition for the designation of an independent candidate is defective and the time to file such petition has expired a justice of the Supreme Court has no power to allow an amended petition to be filed *nunc pro tunc*. *Matter of King* (1913), 155 App. Div. 720.

§ 49. Filing of designations.

1. Where to be filed. All designations of candidates for offices and for election to party positions shall be filed with the officer with whom independent certificates of nomination for such office or offices are required by this chapter to be filed. All designations filed in accordance with the provisions of this section or certified copies thereof shall forthwith be conspicuously posted by the secretary of state or custodian of primary records in his office, and shall remain so posted until primary day, and shall be open to inspection as public records at all reasonable hours, and each such officer shall provide ample and sufficient facilities for keeping and posting said records and for making copies of the same. Forthwith upon the filing of a petition, designating a person for nomination to public office, the board or officer with whom the same is filed shall mail notice thereof to each person named as a candidate for nomination to such office in such petition.

2. When to be filed. All designations shall be filed not earlier than the fifth Tuesday and not later than the fourth Tuesday preceding the primary at which the candidates therein designated are to be voted for. All designations shall at the time of the filing thereof be stamped or indorsed by the secretary of state, or the custodian of primary records, as the case may be, with the day, hour and minute of such filing.

Added by L. 1911, ch. 891; and amended by L. 1913, ch. 820; L. 1914, ch. 244; L. 1916, ch. 537, in effect May 16, 1916.

§ 50. Declination by person designated.

The name of a person designated as a candidate for nomination for party position shall not be printed on the official ballot if he notifies the officer with whom the original certificate of his designation is filed in a writing signed and duly acknowledged by him that he declines the designation. Such declination, to be effective, must be filed within three days after the third Tuesday preceding the ensuing primary. The officer with whom such declination is filed shall forthwith inform by mail or otherwise the committee authorized to fill vacancies in designations, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise of such declination to the several custodians of primary records for the election districts affected by such declination. The vacancy created by such declination shall be filled not later than the second Tuesday preceding the primary election.

If a candidate designated for nomination does not decline the designation within the time hereinbefore mentioned, and he is thereafter nominated as

primary election, examine the names of the candidates to be voted for, and transmit to the several custodians of the political subdivisions where the candidates have been duly filed with him accurate setting forth the names and residences, the titles of the offices for which they are the party upon whose primary ballot they are placed, and the order in which such candidates are to appear under the title of an office or party position of candidates for the same position, if any.

Added by L. 1911, ch. 891, and amended by L. 1914, ch. 244, in effect Apr. 8, 1914.

§ 52. Vacancies in designations, how filled.

If a candidate regularly designated for election, or for a party nomination for public office, dies before the primary day, or is found unable to hold the office or position for which he has been designated, the committee to fill vacancies, if any, which may be organized, may signers and shown upon the face of the petition, may make a new designation, to fill the vacancy, by making and filing with the officer with whom the original designation was filed a certificate setting forth the name of the person designated by the original candidate, and the name of the officer to whom the original designation was made. Such certificate shall be subscribed and acknowledged by a majority of the committee to fill vacancies, who shall believe the matters therein stated are true, and who shall believe, and when so stated.



primary records, or an original certificate of designation as in this section provided for shall be filed with him, after the official ballots have been printed and before primary day, it shall be his duty to prepare and furnish to the inspectors of election in each election district affected adhesive pasters containing the name of the candidate designated to fill the vacancy with directions for the proper use thereof. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type used in printing the names of the candidates upon the official ballots, and shall be of a size as large as and no longer than the space occupied upon the official ballot by the name of the candidate in whose place the candidate named upon the paster has been designated. Whenever such pasters are provided, the officer or board furnishing them shall certify, to the inspectors of election in the election districts affected by the vacancy, the name of the person originally designated, the name of the person designated in the new certificate, the title of the office or party position for which the designation is made, the name of the political party to which the committee making the designation belongs, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for each such district. Upon the delivery of said pasters the inspectors of election shall sign and receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall affix one of such pasters in the proper place and in a proper manner upon each official ballot before such ballot shall be delivered to a voter. When so affixed to an official ballot the paster shall be a part of the official ballot. The inspectors shall include in their statement of ballots a statement showing the number of pasters received by them, the number of pasters affixed to official ballots and the number of unused pasters returned by them, the unused pasters to be inclosed in the package of ballots not delivered to voters. The use of any paster upon the official ballot otherwise than as herein provided is hereby prohibited.

Added by L. 1911, ch. 891, and amended by L. 1913, ch. 820, in effect Dec. 17, 1913.

§ 53. Delegates to national party conventions.

The rules and regulations of each political party may prescribe that the delegates and alternates to a national convention of that party shall be elected from congressional districts, or partly from the state at large and partly from congressional districts but such rules shall not provide for the election of more than four delegates and four alternates from the state at large. In each year when a president of the United States is to be elected, delegates and alternates-at-large, and district delegates and alternates, to national

nations shall be elected at the spring primary. The position of delegates and alternates-at-large to be designated in the same manner as prescribed for the designation of candidates for party nominees to be filled by the voters of the entire state, and delegates and alternates to said convention shall be designated in the same manner as prescribed by this chapter for the designation of candidates for party nominations for the office of representative to congress; save that the time for filing designations shall be computed with respect to the spring instead of the fall primary.

1911, ch. 891, and amended by L. 1912, ch. 4, and L. 1913, ch. 17, 1913.

As to the party the right to designate the unit of representation to the state committee and for delegates to the national convention shall be decided that the unit of representation shall be the county, the entire state, or it may decide that the unit of representation shall be in part the congressional district and in part the county. Gen. 1911, Vol. 2, p. 677.

Not of names of candidates for delegates to national convention. There is no direction in the Election Law as to the order of candidates for delegates to the national convention shall be on the ballot, the court has no power to interfere with the order of elections. Matter of Duell (1912), 149 App. Div. 690.

Electoral electors.

Year when a president of the United States is to be elected. Candidates for the office of elector for president and vice-president of the United States shall be nominated by the electors of the electors to which the electors are to be elected.

candidate for party nomination or for election to party position may be filed with the board or officer with whom the original petition is filed within three days after the filing of such petition. If such objection be filed, notice thereof shall be given forthwith by mail to the committee, if any, appointed on the face of such petition for the purpose specified in sections forty-eight and fifty-two of this chapter, and also to each candidate designated by such petition. The questions raised by such written objection shall be heard and determined as prescribed in section one hundred and twenty-five of this chapter. The supreme court, at special term, in any judicial district in which two or more proceedings are pending in such district under the provisions of this section may, by order, consolidate all such proceedings and provide that further proceedings therein be had before such court at special term, in all cases where the question or questions involved are identical. If one or more of such proceedings be pending before a justice or county judge, notice of such order shall be forthwith given to such justice or judge.

Added by L. 1913, ch. 820, and amended by L. 1914, ch. 244, in effect Apr. 8, 1914.

Time of raising objection.—The question of eligibility may be raised after the election. *Matter of Werther* (1916), 94 Misc. 681, 158 N. Y. Supp. 321.

§ 56. Contests; judicial review.

Any action or neglect of the officers or members of a political convention or committee, or of any inspector of primary election, or of any public officer or board with regard to the right of any person to participate in a primary election, convention or committee, or to enroll with any party, or with regard to any right given to or duty prescribed for, any voter, political committee, political convention, officer or board, by this article, shall be reviewable by summary proceedings upon the petition of any person aggrieved thereby, or upon a petition presented by the chairman of any political committee, which summary proceedings may be instituted before the supreme court or a justice thereof within the judicial district where the transaction, act or neglect of duty took place. Such proceedings shall be heard upon such notice as the court or justice thereof shall direct. In reviewing such action or neglect, the court, justice or judge shall consider, but need not be controlled by, any action or determination of the regularly constituted party authorities upon the questions arising in reference thereto, and shall make such decision and order as, under all the facts and circumstances of the case, justice may require. For the purposes of this section, service of any notice or order or other process of the court or justice thereof upon the chairman or secretary of a committee or board whose action is sought to be reviewed or directed shall be sufficient. The action of any custodian of primary records in canvassing and certifying the result of any

...so made, if
adjudged to have been duly nor
provisions of this chapter at such
shall be placed upon the official
party holding such primary. Proce
shall have precedence and priority
ceedings in the supreme court or b
court, or a justice thereof, upon su
right to subpoena and examine witness
and determine the case upon affidavi
justice thereof should find and determin
controversy had been guilty of frauds on
so permeated by fraud as to render it
terminate the true result of such prima
thereat, such court or justice shall have th
ing of a new primary at the same place at
the regular official primary. The court, o
of ordering a new primary, may include
for the canvassing of the vote of such new p

Added by L. 1911, ch. 891, and amended by L. 1
17, 1913.
Judicial review.— This subject was covered in
Law, which was repealed by L. 1911, ch. 891. The
given in the 1911 Manual under § 70, is given here f
other value it may have:

Legal proceedings against officers of conventions.
of law relating to actions and special proceedings ag
sociations are applicable to political parties and to o
tions and committees, and they may be brought into co
officers as prescribed in section 1904 of the Code of Civ
v. Cole (1907), 54 Misc. 278, 100 N. Y. Supp. 100.
Power of court.— The Supreme Court may
canvass of votes cast at a primary
inspectors, adjudge the true
make and file a
certificates

be amended or changed by judicial action, although in the meantime an enrolled voter may have died or moved out of the election district in which he had enrolled. *People ex rel. Moscowitz v. Voorhis* (1903), 41 Misc. 360, 84 N. Y. Supp. 848, 14 N. Y. Ann. Cas. 15.

This section confers on the court broad summary power to correct fraudulent practices and to compel fair conduct at primary elections, and the court in a proper case has power to set aside summarily a fraudulent primary election and to order a new election, but the exercise of the power rests in its sound discretion and it will not act to correct illegalities in a primary election where the only effect thereof was to increase the majority of a candidate who would have been elected irrespective of the fraud. *Matter of Coughlin* (1910), 137 App. Div. 283, 121 N. Y. Supp. 980, aff'd 108 N. Y. 613.

The power given to the courts by this section to review any action or neglect of officers, committeemen or board by mandamus, certiorari or summary jurisdiction, is confined to such matters as were within the jurisdiction of the board whose action is being reviewed. *Matter of Hines* (1910), 141 App. Div. 500.

The court will not interfere with an election because of alleged void ballots not changing result. *Matter of Hines* (1910), 141 App. Div. 509.

A justice of the Supreme Court has no power, in a proceeding to review the action of inspectors of a primary election under this section, to enjoin a person to whom certificate of election to the county committee of a political party has been issued, from participating in the meetings of the committee. The court possesses and should attempt to exercise only such power to interfere with the conduct of primary elections as is conferred by statute. *Matter of Holle* (1914), 160 App. Div. 369.

While in a summary proceeding under this section to review the action of any custodian of primary records in canvassing and certifying the result of a primary election the court may make any change in the result of such primary election as certified to by the custodian of primary records, it will not interfere until it is shown that the action of the custodian in canvassing and certifying the result is fraudulent, erroneous or in violation of some duty or responsibility imposed by law.

It seems that the proper proceeding for petitioner to try out his title to the office would be by an appropriate action, the statute providing as a preliminary thereto for an examination of the ballots cast, if so desired. *Matter of Sherman* (1915), 92 Misc. 589.

A justice of the Supreme Court sitting in chambers cannot review the action or alleged neglect of the mayor of a city in appointing certain election officers in such city under the authority granted by the above section. The designation of election officers is in accordance with section 12 (now § 303) of the Election Law, and the summary jurisdiction given to justices in the above section only relates to the review of the action or neglect of a public officer or board with regard to a right given or duty prescribed by the Primary Election Law. *Matter of McShane v. Murphy* (1902), 86 App. Div. 566, 83 N. Y. Supp. 1018.

Mandamus to compel recognition as member of committee.—An application for a peremptory writ of mandamus to compel the general committee of a county to recognize the relator as a member, and also to recognize as a member of the executive committee the person chosen by the relator and his associates, is properly denied, where the relator has not been denied his rights as a member of the general committee, the person chosen is not named, no demand is made that any special person should be recognized, and no one has made any demand for such recognition. *People ex rel. Garvey v. Democratic Committee* (1903), 175 N. Y. 415, aff'g 82 App. Div. 173, 88 N. Y. Supp. 784.

Correction of mistakes.—This section cannot be invoked to relieve an elector from consequences of his own action or neglect. *People ex rel. Smith v. York* (1901), 34 Misc. 120, 68 N. Y. Supp. 741.

An elector who, by mistake, wrote his name in the wrong party column, when enrolling for the primaries, is not entitled, under this section, to an order requiring the police board to correct the mistake. *People ex rel. Smith v. York* (1901), 34 Misc. 120, 68 N. Y. Supp. 741.

Review of action of custodian of primary records.—The duty imposed upon a custodian of primary records to deliver a certificate of nomination to the person who is shown to have been nominated by the statement filed in his office is ministerial and not judicial. He cannot receive or act upon evidence tending to explain, vary or contradict such statement. The court cannot, in proceedings brought under the above section to review the action of the custodian in respect to such certificate, receive or consider such evidence. *People ex rel. Calihan v. Hunt* (1902), 75 App. Div. 33, 77 N. Y. Supp. 973.

Process, on whom should be served. *Matter of Hines* (1910), 141 App. Div. 569.

Mandamus does not lie to compel the board of elections of the city of New York to enroll a voter in the Republican party where through his own mistake he unintentionally placed his mark in the Democratic circle on the enrollment blank. *Matter of Jackson v. Britt* (1911), 147 App. Div. 87, 131 N. Y. Supp. 877.

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section. *Matter of Justin* (1911), 73 Misc. 354, 132 N. Y. Supp. 100. It applies only to the official acts of the board and to matters of procedure. It gives the court no power to correct mistakes made by the board. *Matter of King* (1913), 155 App. Div. 720.

Review of primary elections as conferred by statute. *Schlesinger v. Board of Elections* (1913), 155 App. Div. 720. Affirmed 200 N. Y. 677.

Review given by this section is summary and the section is intended to render it ineffectual. *Matter of Trombley* (1913), 155 App. Div. 720. Affirmed 200 N. Y. 677.

Power of court. — This section confers power to entertain writs of habeas corpus only in cases of erroneous action on the part of the board. It does not give power to the court to review the action of the board itself. *Matter of Jackson v. Britt* (1913), 155 App. Div. 720.

Review, cancellation of certificate of nomination. — Petition for a certificate of nomination issued by the Secretary of State on the part of one B. by the Socialist party as Justice of the Peace for the 1st district of the 1st city of New York and two of the aldermen of his ward. On the contrary, a Socialist party member received votes. Held, that the petition for a certificate of nomination of B. should be granted. *Matter of B.* (1913), 155 App. Div. 720.

Primary election returns. — The power of review vested in the court does not authorize an alteration of the return of the inspectors where the error is in a single trifling particular. It is limited to the review of the entire return. *Matter of Zimmer* (1913), 73 Misc. 354.

Review of returns. — The power of the court under this section, which is limited to the review of threatened acts, which are the result of a primary election as certified by the board, is not extended to the review of the returns of the board. *Matter of Zimmer* (1913), 73 Misc. 354.

Review of returns. — Where it appears from the returns that a candidate has been elected, the court has no power to review the returns. *Matter of Zimmer* (1913), 73 Misc. 354.

Review of returns. — The court has no power to review the returns of the board where the board has acted in accordance with the law. *Matter of Zimmer* (1913), 73 Misc. 354.

Review of returns. — Where it is possible to determine the result of the canvass of the returns, the court has no power to review the returns. *Matter of Zimmer* (1913), 73 Misc. 354.

§ 58. Official primary ballot.

There shall be prepared, printed and supplied in the manner hereinafter provided, for use at official primary elections, official primary ballots, and except as otherwise expressly provided in this chapter, no other ballot shall be used at an official primary election.

No names of candidates for any nomination to public office or election to a party position shall be printed upon the official primary ballot, except upon designation duly made as prescribed in this chapter; nor shall any names, words, or signs, or writing whatever be printed, written, stamped or in any manner placed upon an official primary ballot except as herein provided.

The official primary ballots shall conform in quality, weight, and style of printing, to the ballots prescribed in this chapter for use at the general election, excepting that the title of the party position or office shall be printed in a space three-eighths of an inch in depth, and the name of the candidate therefor shall be printed in a space one-fourth of an inch in depth, instead of one-half inch. The ballots of no two parties shall be of the same color. The secretary of state shall designate the color of ballots for each party. The ballot shall be printed upon the same leaf with the stub and separated therefrom by a perforated line. The part above the perforated line, designated as the stub, shall extend the entire width of the ballot, and shall be of sufficient depth to allow the following instructions to voters to be printed on the face thereof in type known as brevier, with the word "Instructions" in larger type above:

"This ballot must be marked with a pencil having black lead. To vote for any candidate whose name is printed on this ballot make a cross X mark in the voting space at the left of the name. To vote for any person whose name is not printed on this ballot write the name of such person in the blank space provided for that purpose under the title of the public office or party position to which you wish him nominated or elected. Any other mark than the cross X mark used for the purpose of voting, or any erasure made on this ballot, makes it void, and it cannot be counted as a vote for any candidate. If you tear or deface or wrongly mark this ballot, return it and obtain another, but only one additional ballot may be thus obtained."

Upon the face of the ballot and directly below the perforated line shall be printed the following: "Official ballot for the primary election of the (name of party) party," the name of the county and town or city; the date on which such primary is held; the party emblem; the assembly district number, number of the ward, (in any city divided into wards), and the election district number, directly below which shall be printed a heavy black horizontal line.

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of the ballot below the perforated line shall be divided into two parts by a heavy black vertical line one-fourth of an inch thick. Immediately below the perforated line in the space at the left of said vertical line shall be printed in bold type "Candidates for nomination for public office." Under the names of candidates for nomination for public office shall be printed under the titles of the respective offices for which they are candidates respectively, in capital letters in black ink, not less than one-eighth nor more than three-sixteenths of an inch in height, so that the names of all candidates for nomination for any one office shall be printed under the title of said office. The titles of the said offices shall appear in the same consecutive order in which they appear upon the official ballot for the general election. Immediately below the title of each public office shall be printed in brierley lower case type a direction to the voters as to the order of persons to be voted for, in the following words: "Vote for _____" (the blank space being filled with the number of persons to be nominated for said office at the office election). Immediately below this division and separated therefrom by a horizontal line shall be printed the names of candidates duly designated for such office. The order in which the names of candidates shall appear under the title of each office shall be determined by the board or officer with whom the nominations are filed by lot in the presence of the candidates or their representatives if present and other persons re-

Immediately below the said perforated line and in the space at the right of said vertical line shall be printed the caption "Candidates for party positions." Under said caption the names of candidates for election to party positions shall be printed under the titles of the respective party positions for which they are candidates respectively, so that the names of all candidates for a party position shall be printed under the title of said position, and so that the said party positions shall appear in the following order: member of state committee; member (or members) of county committee.

At the spring primary, in a presidential year, such heavy vertical dividing line shall be omitted, and under the caption "Candidates for party positions" the titles of such positions shall be printed in the following order; delegates and alternates at large to a national convention; district delegates and alternates to a national convention; member of state committee; member (or members) of county committee.

Immediately below the title of each of said party positions shall be printed in brier lower case type a direction to voters as to the number of persons to be voted for, in the following words: "Vote for " (the blank space being filled with the number of persons to be elected to said party positions at the official primary election). Immediately below this direction and separated therefrom by a horizontal line shall be printed the name or names of candidates duly designated for such party positions in such order as the board or officer with whom designations are filed may by lot determine, upon the notice and in the manner provided for determining the order in which candidates for nomination to public office shall be printed. Immediately below the names of all the candidates in the case of each party position there shall be left a blank space or blank spaces equal in number to the number of candidates to be nominated for said positions and the voter at the official primary election may write in such blank space or spaces the name or names of any person or persons for whom he desires to vote whose name or names are not printed upon the ballot. Voting spaces shall be provided at the left of each column opposite the names of the candidates in the same manner as provided for on the official ballot for the general election.

Where two or more candidates are to be elected to a party position, the names of candidates designated by each petition shall be grouped, and the order in which the groups shall be placed, together with the order of the names within each group, shall be determined by lot, in the manner provided in this section, for determining the order in which the names of candidates shall be printed under the title of an office or party position.

The officer or board charged with the duty of printing, pre-

... a heavy vertical black
dividing line, or one-eighth of an i
The names of candidates for non
the names of candidates for party
consecutively with arabic numerals
at the left of the name of each cand
voting space aforesaid, from one upwa
of the first candidate for nomination t
is printed first through the nan
continuing consecutively through the
nomination for public office and then
names of the candidates for party posi
there are two or more candidates for a p
hereinbefore provided, each group shall
which shall be printed opposite the ap
group, and there shall be between each gro
of spaces for names not printed, a blank
an inch in depth.

Where the name of a candidate for non
public office or for election to the same pa
nated by two or more petitions, it shall be
only once; if a candidate for a party position
more persons be designated in more than one
shall be printed only in the group of candidate
petition first filed: provided that nothing here
prevent the printing of the name of a candida
official ballot as a candidate for nomination for
at the same time as a candidate for one or m
positions.

On the back of the ballot ball
left of the center of
blem of a

ballot beginning, on the ballots of each party, with "number one," and increasing in regular numerical order, and on the back of the stub below the number, the name of the party. All official primary ballots shall, so far as it conforms to the above description, be substantially in the following form: ¹

Added by L. 1911, ch. 891, and amended by L. 1913, chs. 800, 820, and L. 1914, ch. 244, in effect April 8, 1914.

Cross-references. — See Election Law, §§ 330, 331, and 392.

Name of candidate. — That part of this section which provides that "the name of a candidate shall not appear more than once on the ballot as a candidate for the same public office or party position" is an unreasonable restriction upon freedom in voting and a violation of the fundamental law. *Hopper v. Britt* (1912), 204 N. Y. 524, aff'g 149 App. Div. —, 133 N. Y. Supp. 778.

The legislature in the enactment of section 58 of chapter 891 of Laws of 1911 fail to prescribe the position to be occupied on the primary ballots by names of candidates for delegates and alternate delegates to the national convention, although the statute provides for the selection of such delegates at the primary and for an official primary ballot. It also prescribes the order of printing the names of certain other candidates, commencing at the top of the column and proceeding to the bottom of the list. This necessarily leaves as the only space where names of delegates to the national convention can be printed the foot of the ballot at the end of the list as fixed by the statute. *Matter of Duell v. Bd. of Elections* (1912), 205 N. Y. 79.

Use of emblems. — The intent of this section as to arrangement of candidates in columns, etc., is to segregate each group independently nominated by petition, each group to appear under its distinct emblem and where there has been a prior selection of a particular emblem to distinguish other independent candidates upon the same ballot made by different petitioners, it cannot be used by other petitioners. *Matter of Wetmore* (1912), 76 Misc. 627.

An official ballot shall be printed and subject to inspection and ready for use a long enough time before election day to enable candidates and voters to see that it complies with the law. *Matter of Holtzmann* (1914), 87 Misc. 115, 150 N. Y. Supp. 270.

¹ Form omitted.

79. Poll clerks.
80. Ballots, booths, books, blanks and delivery of ballots.
81. Delivery of ballots and manner of
82. Unofficial ballots.
83. Preparation of ballot by voters.
84. Persons within the guard-rail.
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92. Primaries held to nominate candidates.
93. Unofficial primaries.
94. Penalty for violation.
95. Perjury.

§ 70. Organization and conduct of official

1. Election inspectors for each election district in a primary district shall be the election officers.

2. All said officers shall take and subscribe an oath of office, before entering on the discharge of their

3. Each primary shall be held open, for voting, from three o'clock in the forenoon until nine o'clock in the evening in any city of over one million inhabitants, where such primary is open, for voting thereat, from three o'clock in the forenoon until nine o'clock in the evening.

4. The primary election officers shall perform the duties of election officers at a general election, and shall receive the same services of inspectors on the last day of registration in any city of over one million inhabitants, they shall receive seven dollars and fifty cents for their services at such election.

5. In each year an official primary election shall be held on the Tuesday before the general election for president of the United States is to be held, and in any city of over one million inhabitants, the first Tuesday after the first Monday in June.

6. Subject only to such differences as may be necessary, an official primary election shall be held on the first Tuesday after the first Monday in June.

inspectors, exclusive of the chairman, shall act as primary poll clerks, with the powers and duties of such clerks under this chapter. The chairman shall receive the primary ballots, as they are cast or returned by the enrolled voters. All the inspectors, including those designated as poll clerks and ballot clerks, shall also perform the duties of primary inspectors from the time the polls are opened until the statements of the results of the canvass are completed.

Added by L. 1911, ch. 891; and amended by L. 1913, ch. 820; L. 1915, ch. 678; L. 1916, ch. 537; L. 1917, ch. 703, in effect June 1, 1917.

Cross-references.—Form of constitutional oath, Const., art. 13 (part 2, post). Who may administer oath, Public Officers' L., § 10 (part 6, post); General Construction L., § 36 (part 11, post). As to election officers and their duties at general elections, see sections 302, et seq., also art. 14, generally.

Duties of chairman.—Where the chairman of a caucus refuses to perform his duty or arrogates to himself the power lodged in the meeting or caucus itself, the meeting or caucus has power to elect another chairman in his place. *Matter of Broat* (1894), 6 Misc. 445, 27 N. Y. Supp. 176.

It is the duty of a chairman of a caucus or primary to put motions, properly made, to a vote, and he has no right to declare a motion or resolution carried without a vote being taken, unless by unanimous consent. *Matter of Broat* (1894), 6 Misc. 445, 27 N. Y. Supp. 176.

When the chairman of a primary declares persons nominated as delegates or committeemen, elected, without taking a vote, and he refuses to take a vote thereon or to recognize any other nomination, his act is a nullity. *Matter of Broat* (1894), 6 Misc. 445, 27 N. Y. Supp. 176.

Where the temporary chairman of an assembly district convention refuses, upon demand made, to call the roll of the certified members of the convention, upon a vote for the office of temporary chairman, and puts the question to vote *cum voce*, his action is illegal. *French v. Roosevelt* (1890), 18 Misc. 307, 41 N. Y. Supp. 1080.

A primary cannot be deemed a fair expression of the choice of the voters of a town where it appears that it was held in a hall largely occupied by the adherents of one faction, that the proceedings were conducted and terminated in a period of from five to ten minutes, and that a ballot demanded was refused by the chairman of the primary, who had been elected in the interest of the faction which was in practical occupation of the hall. *Matter of County Clerk of Clinton County* (1897), 21 Misc. 543, 48 N. Y. Supp. 407.

Rejection of vote.—A person's vote may be rejected where he refuses, when challenged, to take the required oath or answer questions as to his qualifications. *Report of Atty.-Gen.* (1895), 223.

§ 71. Qualifications of voters at official primaries.

No person shall be entitled to vote at any official primary unless he is duly enrolled and may be qualified to vote on the day of election. The primary election inspectors shall decide all questions that arise relating to the qualifications of voters.

Derivation: Added by L. 1911, ch. 891, § 32, in effect Nov. 15, 1911.

Cross-references.—As to qualifications of voters, see also Election Law, § 162. As to review by courts with regard to rights of persons to participate in primary elections, etc., see Election Law, §§ 23 and 56.

The words "qualified to vote, etc." in this section, have relation to the qualifications specified in section 162 of the Election Law, that is, the age, citizenship and residence of the voter, and not his ability to vote for all candidates that may be nominated at the convention regardless of the

¹ Changed to Monday before fifth Tuesday for year 1914. (Laws of 1914, ch. 224, in effect June 2, 1914; see opposite page 1.)

... is reasonable or lawful.
38 N. Y. St. Rep. 387, 38 N. Y. Supp. 91

It is the legal right of a party voter to vote at the primaries, does not depend upon the action of the enrolling committee, but upon the requirements. *Matter of Guess* (1896), 16 2 38 N. Y. Supp. 91.

The qualification and limitation "duly enrolled in the district in which the voter is enrolled and upon which his name appears." *Matter of Steinbrink v. Lloyd*, 154 N. Y. Supp. 870.

§ 72. Challenges at official primary election

The right of an enrolled voter to participate in a primary election shall be subject to challenge at any time before the ballot is deposited in the ballot box. When any voter is challenged, the chairman, or one of the members, shall put to him an oath or affirmation to answer which he shall be allowed to make such oath or affirmation, and shall answer each of the following questions: "Are you the person whose name appears on the list as the name which he has given as his name?"

Do you reside, and have you, for thirty days immediately preceding the election, at the address which appears on the list as the address of your residence?"

Derivation: Formerly § 57. Renumbered by L. 1911, c. 15, § 15. Originally revised from Primary Election Law, § 57.

Purpose of oath.—A voter who has enrolled in a primary election and subsequently moved his residence into another district, is not entitled to vote at the primary election in the district in which he has removed, even though his name has not been removed from the enrollment list, and he cannot compel the board of inspectors to allow him to vote by taking the oath provided for in this section. The purpose of the oath is to identify only a voter who is enrolled in the district in which he seeks to vote. *Matter of Steinbrink v. Lloyd* (1911), 154 N. Y. Supp. 870. Report of Attorney-General, September 1911, p. 10.

§ 73. Expense of official primaries.

The expense of official primary elections shall be paid by the State, and shall include the expense of preparing and copying the list of voters.

political subdivision of the state, are hereby authorized and directed to raise money to such an amount as may be necessary, in any manner provided by law for meeting expenses in anticipation of the collection of taxes and to pay such expense therefrom. The amount so raised shall be included in the amount to be raised by tax in the ensuing year.

Derivation: Formerly § 47. Renumbered and amended by L. 1911, ch. 891; § 34, in effect Nov. 15, 1911. Originally revised from Primary Election Law, § 4, pt. of subd. 2, as amended by L. 1900, ch. 506, § 1; L. 1901, ch. 380, § 1.

§ 74. Primary districts, officers and polling places.

The custodian of primary records shall thirty days before each official primary day, divide every ward in a city, except a city of over four hundred thousand inhabitants, and divide every village having five thousand inhabitants or more, into primary districts, each of which shall consist of two contiguous election districts, except that in case there is an odd number of election districts in such ward or village, the highest numbered election district shall be a primary district by itself. In each of such primary districts, except where an election district shall be a primary district by itself, there shall be two polling places. Such polling places shall be designated and provided at public expense by the officers or boards whose duty it is to provide polling places for days of general election, and shall be, so far as they are available, the same places as were used for the last preceding general election. The custodian of primary records shall assign one of the polling places in each such primary district to the party which, at the last election of governor, cast the highest number of votes for governor, and at the other polling place in such primary district there shall be held the primary elections of all other parties. In all other villages and towns, and in each city having over four hundred thousand inhabitants, each election district shall constitute a primary district. In a city, town or village in which each or any election district constitutes a primary district there shall be for each such primary district primary election officers, who shall consist of the election inspectors for the election district comprising such primary district and such inspectors shall be the board of primary inspectors. In a city or village having more than five thousand inhabitants, except a city having over four hundred thousand inhabitants, there shall be for each primary district having two polling places two groups of primary election officers, one of which shall consist of the election inspectors for the election districts comprised within such primary district who shall at the time represent the party which at the last preceding election of a governor shall have cast the largest number of votes for governor, and the other of which shall consist of the election inspectors who

shall represent the party which, at such election, shall have cast the second largest number of votes for governor. The first mentioned officers shall conduct the primary election of the party represented by them and the second mentioned officers shall conduct the primary elections of all other parties at the time entitled to hold primary elections. The election inspectors belonging to each such group of primary officers shall be the board of primary inspectors.

In a city, town or village in which each or any election district constitutes a primary district the polling place in each such primary district shall be designated and provided at public expense by the officers or boards whose duty it is to provide the polling places for the general election, and, where practicable, it shall also be the same place that was used at the last preceding general election, unless, in a city having over one million inhabitants, the primary polls be placed in a school or other public building as provided in section two hundred and ninety-nine.

Derivation: Formerly § 48. Renumbered and amended by L. 1911, ch. 891; amended by L. 1913, ch. 820; L. 1915, ch. 678; L. 1916, ch. 537; L. 1917, ch. 703, in effect June 1, 1917. Originally revised from Primary Election Law, § 4, subd. 3.

§ 75. Notice of official primaries.

At least thirty-five days before each official primary day the chairman of the general committee of each party subject to the provisions of this article, shall certify and deliver to the custodian of primary records a statement of the committees and offices for which members or candidates as the case may be, are to be elected or nominated thereat, and the number of members of committees, to be elected in each unit of representation. If delegates and alternates to a national party convention are to be chosen at the primary, such statement shall certify the number to be elected in each unit of representation. The custodian of primary records shall prepare a notice of each official primary election provided for by this article, and shall publish such notice, not more than thirty-five days and not less than thirty days prior to such primary election, in at least one newspaper having a general circulation in the city or village, of the political faith of each of the two parties which, at the last preceding election of a governor, cast the highest and next highest number of votes for governor. Such notice shall specify the day of such primary election, the hours during which it will be held, the location of each such polling place, the election districts whose voters may vote at each such polling place, the name of the party or parties whose primary elections will be held thereat, and the national party conventions, party committees or public offices.

for which delegates, members or candidates, as the case may be, will be chosen thereat.

Derivation: Formerly § 49. Renumbered and amended by L. 1911, ch. 891; amended by L. 1913, ch. 820, in effect Dec. 17, 1913. Originally revised from Primary Election Law, § 4, subd. 4, as amended by L. 1908, ch. 463, § 1.

Unit of representation.—Where the certificate, required by subdivision 4 of section 4 (now Election Law, § 49), is delivered to the custodian of primary records and the unit of representation established by the party is the assembly district, by reason whereof members of the party might vote for delegates to certain conventions which would nominate candidates for office for whom they could not vote at the general election, the districts for which such officers were to be elected not being coterminous with the assembly districts, the board of elections is not justified for that reason in rejecting the certificate and refusing to publish a call or notice pursuant thereto. *Matter of Sheridan* (1907), 57 Misc. 42, 107 N. Y. Supp. 244.

The party may lawfully establish the assembly district as the unit of representation, though such unit may not be the fairest possible unit of representation that could be established. *Matter of Sheridan* (1907), 57 Misc. 42, 107 N. Y. Supp. 244.

A statement filed pursuant to this section which shows that in one assembly district, consisting of three aldermanic districts, the electors of the entire assembly district were to participate in the election of all the delegates to the aldermanic convention does not conform to the statute, and violates article 2 of the rules and regulations of the Democratic party for the county of New York; and also section 53 (now § 5) of the Election Law. *Matter of Murphy* (1908), 126 App. Div. 58, 110 N. Y. Supp. 1020.

The term "general committee," as used in section 10, is made by the amendment of 1901 to mean the general city committee, and the requirements contained in this section, that the chairman of the general committee of each party shall file with the custodian of primary records a statement of the number of delegates to be selected to conventions, mean the chairman of both the general county committee and the chairman of the general city committee. *Matter of Wallace* (1901), 36 Misc. 1, 72 N. Y. Supp. 445.

§ 76. Restrictions as to place of primaries.

No primary election shall be held in a saloon or drinking place, or in a room which is more than one flight of stairs from the street or not readily accessible from the street.

Derivation: Formerly § 51. Renumbered by L. 1911, ch. 891, § 37, in effect Nov. 15, 1911. Originally revised from Primary Election Law, § 4, pt. of subd. 5.

§ 77. Removals from, and filling vacancies in, boards of primary election officers.

Removals from boards of primary election officers shall be made, and vacancies occurring in such boards shall be filled, in the same manner as is provided in this chapter for making removals from boards of election officers and for filling vacancies therein on a day of registration.

Derivation: Added by L. 1911, ch. 891, § 38, in effect Nov. 15, 1911.

§ 78. Primary poll-clerks and poll-books, in primary districts outside of cities of over one million inhabitants.

The provisions of this section shall apply only to primary districts outside of a city having over one million inhabitants.

Each primary poll-clerk at each polling place at an official primary election shall have a poll-book for each party in each elec-

1901 of the election
who resides, in the appropriate column of the poll-book of the enrolled voter, in the successive order thereto, the name of the enrolled voter, the first letter of his surname, his number, or if he have no street number the locality thereof, the printed number of the ballot delivered to such enrolled voter, and the number voted by him. If the ballot delivered to him be returned by him to the primary poll-clerk, he shall obtain a new ballot, the primary poll-clerk shall enter the name on the poll-book in the proper column of the stub of such ballot. Each primary poll-clerk shall keep a memorandum upon his poll-book opposite the name of each person who shall have been challenged and whose assistance has been prescribed upon such challenge, or who has received assistance in preparing his ballot and shall enter the name of such person in the poll-book opposite the name of such person the name of the officers or persons who render such assistance, and the reason assigned for such assistance by the primary poll-clerk.

As each enrolled voter offers the ballot to the primary inspector, each primary poll-clerk shall ask the primary officers whether the number of the ballot kept by him as the number on the ballot of the enrolled voter is the same as the number of the ballot so offered. As each enrolled voter votes, the primary poll-clerk shall enter in the proper column on his poll-book the number of the stub of the ballot voted. Upon the closing of the primary election, the primary poll-clerks shall compare the poll-books with the entries in the poll-books and correct any mistakes.

Derivation: Added L.

Keeping the list of enrolled voters voting or offering to vote thereat at the primary election. In each primary district of such city the poll-book shall be arranged in columns as provided in this section, and the leaves of such poll-book shall be indexed from A to Z. Columns one to seven inclusive shall be arranged upon the left hand pages of said book, and the remaining columns upon the right hand pages. The first column of the poll-book shall be entitled "number of voter voting at the primary," and in such column, as the name of each enrolled voter voting at such primary is recorded, shall be entered a number opposite the name, beginning with "one" opposite the name of the first voter voting at the primary of any party in such election district and continuing in numerical order to and including the last voter voting at such polling place. The second and third columns shall together be entitled "name of enrolled voter," with the respective sub-titles "surname" and "given name or names." As the enrolled voters in the respective parties present themselves to vote at such primary the surnames of such voters shall be entered in such second column in the alphabetical order of the first letter of such names on the pages bearing the index letters of such surnames. In the third column shall be entered the christian or given name or names of such voters respectively. The fourth column shall be entitled "residence of enrolled voter," and in such column shall be entered the residence of each such voter. The fifth column shall be entitled "party of enrolled voter," and in such column shall be entered the name of the party in which each such voter is enrolled and in whose primary he is participating. The sixth column shall be entitled "signature of enrolled voter (or number of identification statement)," and above each horizontal line in said column shall be printed the words "The foregoing entries are true and correct," and in such column, below such words printed above the line on which his name is entered, each voter participating in the primary shall sign his name by his own hand and without assistance, using an indelible pencil or ink, or in default of such signature (in case only of inability to sign as hereinafter provided) shall be entered the number of such voter's identification statement. The seventh column shall be entitled "signature compared by inspector," and before the voter shall receive a primary ballot, one of the inspectors, other than the inspector who receives the primary ballots from the enrolled voters, shall compare the voter's signature then and there made in such poll-book with the same voter's signature theretofore made in the registration book on registration day, and such inspector shall then and there sign his initials in said seventh column in evidence thereof. The eighth, ninth and tenth columns shall be grouped together under the title "number of primary ballot delivered to

enrolled voter" with the respective sub-titles "first ballot," "second ballot," "third ballot," and in such column or columns, beginning with the eighth, shall be entered the number on the ballot (or successive ballots) delivered to such voters respectively. Then shall follow as many columns as there are parties holding a primary in such election district, grouped together under the title "number on primary ballot voted," and at the top of each column shall be printed the name of one of such parties, the party names to be arranged in the order of the size of their respective vote for governor at the last preceding general election, the party casting the highest number of votes for governor to come first, and so on; and the number upon the ballot voted by each such enrolled voter shall be entered in the column bearing the name of the party whose ballot he casts. The last column in such poll-book shall be entitled "remarks regarding challenges, oaths, and other facts required to be recorded," and in such column shall be entered, opposite the name of each voter, such record of challenges, oaths, and other facts relating to him as this law requires to be entered in the poll-book and are not otherwise provided for.

3. The procedure with respect to recording in each such poll-book the names of and other particulars concerning the enrolled voters presenting themselves to vote at any primary, obtaining, comparing and certifying to their signatures prior to the delivery of ballots to them, or obtaining identification statements in lieu of such signatures, recording and announcing the ballots delivered and voted, making and recording challenges, and all other procedure with respect to the taking of the vote at any party primary shall be the same as that prescribed for the general election, and except as otherwise provided in this article, all provisions of article ten of the election law applying to the taking of the vote at a general election shall apply equally to each party primary.

Derivation: Added by L. 1915, ch. 878, in effect May 22, 1915.

§ 79. Ballots, booths, books, blanks and supplies.

The custodian of primary records shall have for each party printed ballots for each election district equal in number, as near as may be, to one and one-fifth times the total number of enrolled voters of the party in the election district, prepared as herein described. Such ballots and the sample ballots and the original enrollment books, poll-books, blanks and stationery shall be delivered by the board of elections, at its office on the Saturday before the primary election for which they are needed to each town or city clerk in the county, except in New York city and in the city of Buffalo. It is hereby made the duty of each such town or city clerk to call at the office of such board at such time and receive such ballots and supplies. Each such town or city clerk shall deliver to the proper polling places in their city or town the ballots and such supplies for such primary election, at least one-half hour

before the time fixed for opening the polls. In the cities of New York and Buffalo, such custodian shall cause such supplies to be delivered to the proper primary officers at the various polling places at least one-half hour before the time fixed for the opening of the polls. The polling places, voting booths, guard-rails, distance markers, ballot boxes, sample ballots, poll-books and other supplies required for official primary elections shall be provided and paid for by the same officers, and in the same manner, as in the case of general elections. At all official primary elections a separate ballot box with the name and emblem of the party and with the number of the election district clearly and conspicuously written or printed thereon, shall be provided at each polling place for each party participating in a primary election at such polling place; and there shall also be a large box for the reception of unvoted ballots and an additional box for detached ballot stubs and there shall be affixed to the outside of the polling place and in at least two places on the inside thereof, and in a conspicuous manner, placards printed with large-sized bold-face type, which shall specify the name of the parties whose primary election is being held in such polling place. Sample ballots shall be provided by the custodian of primary records for each party for each election district, equal in number, as near as may be, to twenty-five per centum of the number of official ballots required to be furnished for such party for such election district. Such sample ballots shall be printed on paper different in color from the paper used for the official ballot, and there shall be no numbers upon the stubs thereof, but in all other respects such sample ballots shall be precisely like the official ballots. One of such sample ballots shall be furnished upon application at any time on primary day to any voter entitled to vote the ballot of which he requests a sample.

The custodian of primary records shall prepare and furnish for each board of primary election inspectors two tally sheet blanks and two statement of result blanks for each party whose primary election is under the jurisdiction of said board of primary election inspectors. Upon each of said blanks shall be indorsed the name of the party, the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district for which said blank is to be used.

Each such tally sheet shall consist of three columns separated from each other by vertical lines running from top to bottom of each page of the tally sheet. In the first column shall be printed the title of each public office for which a candidate is to be nominated, and in the case of the party tally sheets, the name of each party position to which members are to be elected. Under the name of each public office on the party tally sheets for which

candidates are to be nominated and on the same page shall be printed, in alphabetical order, the names of all candidates for the nomination therefor. Under the name of each party position on the party tally sheets and on the same page shall be printed, in alphabetical order, the names of all candidates for election thereto. On all the tally sheets, under the names of the group of candidates for each public office or party position, shall be printed, each on a separate line, the words "blank" and "void" and the phrase "total number of votes cast for this office (or position)," and under such phrase shall be left several blank spaces for writing in names not printed on the ballot. Each name and each such word, phrase or space upon said tally sheet shall be separated from each other name and each other such word, phrase or space next thereto by parallel horizontal lines extending from one side of the sheet to the other. The second column upon the tally sheet shall be headed, at the top of each page thereof, "Space for tally as canvass progresses." The third column in like manner shall be headed "Space for total number of votes received by each candidate."

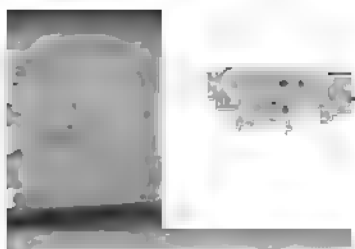
Each such statement of result sheet shall consist of two columns separated from each other by a vertical line running from top to bottom of each page of the sheet. In the first column shall be printed the title of each public office, and, in the case of the party statement of result sheets, the name of each party position and the names of all the candidates therefor, which shall be printed in the same manner and order as upon the tally sheet in the first column thereof. All names shall be separated from each other by parallel horizontal lines. At the head of each statement of result sheet shall be printed the following: "Statement of result of the vote cast at the official primary election held on the . . . day of (the blanks being properly filled)," and there shall also be printed the name of the county, the number of the assembly district or ward, or the name of the town, and the number of the election district. At the foot of each such statement of result sheet shall appear the following certificate to be signed by the primary election inspectors: "We hereby certify that the foregoing statement of result is true and correct in all respects.

.....

Board of Primary Election Inspectors."

All pages of each tally sheet and of each statement of result sheet shall be securely bound together in convenient form.

Added by L. 1911, ch. 891, and amended by L. 1913, ch. 820 and L. 1914, ch. 244; L. 1917, ch. 703, in effect June 1, 1917.



§§ 80-82 CONDUCT OF PRIMARY ELECTIONS, ETC.

57

The following decisions were rendered under former section 55, which covered the same subject and which was repealed by L. 1911, ch. 891:

Ballots, their preparation, inspection and distribution. — There is no provision of law that requires the county committee or the political organization to print ballots for a primary, or imposes any duty in regard to the inspection or distribution of ballots or the right to inspect any ballot prepared by any elector for use at the primary. *Matter of Hammond v. General Committee* (1907), 58 Misc. 302, 106 N. Y. Supp. 589.

The use of paper lighter in weight and color is insufficient grounds for ordering a recount setting aside the declared result of a primary election, where it was conducted without fraud, and it is clear that the use of such paper did not affect the result of the election. *People ex rel. Abrahams v. Voorhis* (1904), 45 Misc. 104, 91 N. Y. Supp. 595.

Effect of union label imprint on ballot. — The imprint upon the face and inside of ballots at a primary election following the names of candidates voted for of a "union label," such as is ordinarily used to designate articles manufactured or worked upon by union labor, when it does not appear to have been placed upon the ballots for the purpose of identification, does not render the ballots void nor authorize their rejection by the board of inspectors. *Matter of Peters* (1908) 60 Misc. 420, 112 N. Y. Supp. 339.

Paster ballots should not be used in a primary election or caucus. *Report of Atty.-Gen.* (1898), 227.

Voting machines not to be used at primary election or caucus. *Report of Atty.-Gen.* (1899), 286.

Printing of ballots. See *Matter of Hines* (1910), 141 App. Div. 569.

§ 80. Delivery of ballots and manner of voting.

No voter at a primary election shall be given or be allowed to mark or cast the ballot of any party with which he has not enrolled. The folding and delivery of ballots and the manner of voting shall be the same as prescribed for the folding and delivery of ballots and the manner of voting prescribed by the provisions of this chapter relating to general elections so far* the same may be applicable, excepting that each ballot after detachment of the stub by the officer charged with that duty shall be deposited in the separate box provided for the party designated on the ballot, and such officer, in addition to announcing the name of the voter and number of the stub, shall also announce the party name thereon.

Derivation: Added by L. 1911, ch. 891, § 41, in effect Nov. 15, 1911.

§ 81. Unofficial ballots.

If, for any cause, the official ballots for any party shall not be provided as required by law at any polling place, upon the opening of the polls of any primary election thereat, or if the supply of official ballots for any party shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as practicable in the form of the official ballot, may be used.

Derivation: Added by L. 1911, ch. 891, § 42, in effect Nov. 15, 1911.

§ 82. Preparation of ballot by voters.

The voter, on retiring to the voting booth, shall prepare his ballot in the following manner: He shall make a cross X mark in

* So in the original.

black lead in the blank space under party position the name of any person desiring to vote, whose name or name not exceeding with the candidates X mark the total number of persons is to be filled. It shall not be lawful in any manner, nor to erase any prior letter therefrom, nor to erase any voter nor inclose in the folded ballot. If the voter deface or tear a ballot, make an erasure thereon, he may obtain by turning to the ballot clerk the one so

Added by L. 1911, ch. 891; and amended by L. 1916, ch. 100, in effect May 15, 1916.

Validity of ballots having pencil dots or crosses, half crosses, excessive crosses and crosses first written. Matter of Garvin (1915), 168 A

§ 83. Persons within the guard-rail.

From the time of the opening of the canvass of the votes cast thereat shall the official statements of such canvass ballot boxes and all voted ballots shall be kept in the guard-rail. No person shall be admitted within the guard-rail during such period, except primary election watchers, persons admitted by the in-charge of the law, and persons duly authorized to vote; provided, however, that any person present at the canvass of the votes.

Derivation: From L. 1915, ch. 100, § 45, in effect Nov. 10, 1915, to July 1, 1916, § 7, subd. 3.

§ 84. Watchers: challengers: election

The in-charge and other boxes used in the canvass shall be determined by the in-charge.

polling place and within the guard-rail from at least fifteen minutes before the examination of any ballot or other box at the opening of the polls of such primary election until after the announcement of the result of the canvass of the votes cast thereat and the signing of the statements thereof by the inspectors. A reasonable number of challengers, at least one person for any three or more persons of each party holding its primary election at that polling place, whose names are upon any official ballot at such primary election, shall be permitted to remain just outside the guard-rail of each such polling place, where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat. No person shall, while the polls are open, at any polling place do any electioneering within such polling place, or within one hundred feet therefrom, in any public street or in any building or room, or in a public manner, and no political banner, poster or placard shall be allowed in or upon such polling place on any primary day.

Derivation: Formerly § 59. Renumbered and amended by L. 1911, ch. 891, § 45; amended by L. 1913, ch. 820, in effect Dec. 17, 1913. Originally revised from Primary Election Law, § 7, subd. 4.

§ 85. Canvass of votes.

As soon as the polls at any official primary election shall close, the primary inspectors shall forthwith publicly canvass and ascertain the result thereof, and they shall not adjourn or postpone the canvass until it shall be fully completed. All questions touching the validity of ballots or their conformity with the provisions of this chapter shall be determined by a majority vote of the primary inspectors. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for any person or persons during the canvass, to close, or cause to be closed, the main entrance to the room in which such canvass is conducted, in such manner as to prevent ingress or egress thereby. The primary inspectors shall proceed to canvass the vote by counting the ballots found in the ballot boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the ballots found in each box with the number shown by the enrollment book to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess, and, without unfolding them, forthwith destroy them. If two or more

... ballot box, make a total
the enrollment book to have been
chairman only of the board of
ballots taken from a ballot box.
primary election inspector or a de
ing the canvass of the vote, declar
ballot has been written upon or i
pose of identification, the inspector
ballot " Protested as marked for id
over their signatures upon the back
upon such ballot, to which objecti
each such ballot shall be counted b
If any ballots shall be rejected as voi
shall be written on the back thereof
specter designated by him. All ba
ballots protested as marked for ident
a separate sealed package, which sha
thereof with the names of the inspec
election district, and the number an
therein. Such package shall be file
original statement of the canvass. A
ballots of any party protested as marke
number thereof rejected as void, shall b
ments of the result of the canvass for
any watcher, the inspector shall, during
all ballots cast at such primary election
and in such condition that he may ful
amine the same, but such inspector sha
be taken from his hands. Any person o
officer who shall handle any ballot voted
shall be guilty of a misdemeanor.

Derivation: Formerly § 60. Revised
amended by L. 1913, ch. 107
revised from

but should canvass such ballots and return them as protested ballots. *Matter of Crowforth* (1908), 58 Misc. 614, 109 N. Y. Supp. 1003.

Upon an application to review an action of the board of inspectors at a primary election, the court will count ballots which are not proved to have been marked for the purpose of identification, when the marks they bear can be as well explained by the assumption that the persons casting the ballots thought it necessary to place the cross marks upon them, as when voting at the general election, as by the assumption that the voter marked them for the purpose of identification. *Matter of Crowforth* (1908), 58 Misc. 614, 109 N. Y. Supp. 1003.

Void ballots must be rejected; protested ballots are to be so marked but must be counted. *Matter of Rush* (1903), 42 Misc. 70, 85 N. Y. Supp. 581.

The imprint upon the face and inside of ballots at a primary election following the names of candidates voted for of a "union label" such as is ordinarily used to designate articles manufactured or worked upon by union labor, when it does not appear to have been placed upon the ballots for the purpose of identification, does not render the ballots void nor authorizes their rejection by the board of inspectors. *Matter of Peters* (1908), 60 Misc. 420, 112 N. Y. Supp. 339.

Use of paste held not a marking for identification where its presence could not be discovered by an inspection of the outside of the ballot. *Matter of McDade* (1899), 43 App. Div. 303, 80 N. Y. Supp. 333.

Erasure of names and substitution of others, not discoverable from the outside of ballot, also held not to be a marking for identification. *Matter of McDade* (1899), 43 App. Div. 303, 80 N. Y. Supp. 333.

Canvass of votes by board of elections in city of New York.—The board of elections of the city of New York as custodian of primary records cannot be compelled by the Supreme Court to recount ballots returned by boards of primary inspectors as void and protested, and determine whether or not those ballots alleged to be lawful were counted, and, if not counted, add them to the returns and canvass them. The power of the board of elections in such matters is ministerial only. *Matter of Rush* (1903), 42 Misc. 70, 85 N. Y. Supp. 581.

Power of court over returns.—A special term has power upon proper application to set aside a canvass of inspectors of primary election, to adjudge the true result, to direct the inspectors to reconvene and make and file a record showing the results adjudged, to nullify the certificate of election, and to direct the issuance of others to candidates entitled thereto at any time before the candidates first declared elected have actually entered into possession of their offices. *Matter of Walsh v. Church* (1906), 115 App. Div. 82, 100 N. Y. Supp. 764.

Written statement of results of a canvass of votes cast at a primary election takes precedence over an oral proclamation of the result. *Matter of Walsh v. Church* (1906), 115 App. Div. 82, 100 N. Y. Supp. 764.

A recanvass of votes at a primary election is unauthorized when it appears that a convention has been held and candidates nominated. *Matter of Orzel* (1910), 140 App. Div. 410, 125 N. Y. Supp. 291.

§ 86. Intent of voters.

If the voter marks more names than there are persons to be nominated for an office or elected to a party position, or if for any other reason it is impossible to determine the voter's choice of a

candidate for a party position or for nomination for an office, his vote shall not be counted therefor but shall be returned as a blank vote for such nomination or party position.

A void ballot is a ballot upon which there shall be found any mark other than a cross X mark made for the purpose of voting, which voting mark must be made with a pencil having black lead, only in a voting space to the left of the name of a candidate; or one upon which anything is written other than the name or names of any person or persons not printed upon the ballot, for whom the voter desires to vote, which must be written in the blank space under the title of the proper office or party position with a pencil having black lead; or one which is defaced or torn by the voter; or one upon which there shall be found any erasure of any printed device, figure, letter or word, or of any name or mark written thereon, by such voter; or in which shall be found inclosed a separate piece of paper or other material; and upon such ballot no vote for any candidate thereon shall be counted. Any straight line crossing any other straight line at any angle within a voting space shall be deemed a valid voting mark; but no ballot shall be declared void because a cross mark thereon is irregular in form.

Added by L. 1911, ch. 891; and amended by L. 1913, ch. 820; L. 1916, ch. in effect May 15, 1916.

Cross-reference.—See note to § 362.

First name of candidate.—Where a voter attempted to write in the name of a candidate not printed on the ballot, the fact that he did not put in the first name of such candidate, while it might make it ineffective as a vote for that candidate, did not make the whole ballot void. *Matter of Garvin* (App. Div.), N. Y. L. J., June 9, 1915.

§ 87. Proclamation and statement of result.

Immediately upon the completion of such canvass, the board of primary inspectors in each primary district shall make public oral proclamation of the result thereof, and shall make upon the statement of result sheet for each party a written statement of such result for each election district in such primary district, and also a duplicate thereof, which shall be known as the duplicate statement. Immediately after the completion of such statements, such board shall file the originals thereof with the custodian of primary records, and shall file the duplicate statements with the clerk of the city, town or village.

In cities having more than one million inhabitants the board of primary inspectors shall also make and sign a police return of the vote at the primary similar to that required at the general election by section three hundred and seventy-two of this chapter, and such return and its contents shall be treated in the same manner by the same officers as is provided in that section with respect to the statement of the result of the canvass of votes on election day to be delivered to the police.

Derivation: Formerly § 61, as amended by L. 1909, ch. 240. Renumbered and amended by L. 1911, ch. 891, § 48; and amended by L. 1915, ch. 678, in effect May 22, 1915. Originally revised from Primary Election Law, § 8, subd. 2.

Return by inspectors.—When the inspectors of a primary election have made a correct return of the votes as cast, a purely ministerial act, their functions cease. *Matter of Zimmer* (1912), 76 Misc. 320.

§ 88. Preservation of records and papers.

At all reasonable times any watcher shall have reasonable opportunity to make a transcript of any such statement, or any portion thereof and any candidate shall be entitled to receive, upon demand, a written statement showing the result of the primary election so far as he is concerned.

After the close of the canvass of the votes at official primary elections, the ballots of each party cast thereat, except the protested, void and wholly blank ballots, shall be tied together, labeled and replaced in the ballot boxes from which they were respectively taken, and such ballot boxes shall then be securely locked and sealed, and, together with the box containing the stubs, shall be returned to the officer from whom they were received, who shall safely keep the same, subject, however, to be produced upon the order of any court of record or judge thereof, for not less than thirty days after such primary election, and until all suits or proceedings before any court or judge touching the same shall have been finally determined, when the ballots and stubs shall be removed and without examination, destroyed. In the case of a contested nomination for office or a contested election to a party position any candidate shall be entitled as of right to an examination in person or by authorized agents of any primary ballots upon which his name lawfully appeared as that of a candidate; but the court shall prescribe such conditions, as of notice to other candidates or otherwise, as it shall deem to be necessary and proper. The custodian of primary records shall preserve for at least two years all books, records, petitions, objections, certificates and papers filed with him under any provision of law for a period of at least two years, at the expiration of which time all such books, records, petitions, objections, certificates and papers may be destroyed by such custodian.

Derivation: Formerly § 62. Renumbered and amended by L. 1911, ch. 891; amended by L. 1913, ch. 820, in effect Dec. 17, 1913. Originally revised from Primary Election Law, § 8, subd. 3, as amended by L. 1905, ch. 207, § 1.

§ 89. Canvass of statements of results; certificates of election to party position.

1. Canvass by custodians of primary records. The custodian of primary records shall forthwith proceed to canvass the statements of results filed with him as provided in this article, and shall com-

...when anything is written by any person or persons not the voter desires to vote, which under the title of the proper of having black lead; or one which or one upon which there shall be device, figure, letter or word, or thereon, by such voter; or in a separate piece of paper or other in vote for any candidate thereon shall crossing any other straight line at; shall be deemed a valid voting mark void because a cross mark thereon is

Added by L. 1911, ch. 891; and amended in effect May 15, 1916.

Cross-reference.—See note to § 368.

First name of candidate.—Where a voter a candidate not printed on the ballot, the fac name of such candidate, while it might make candidate, did not make the whole ballot void. N. Y. L. J., June 9, 1915.

§ 87. Proclamation and statement of result.

Immediately upon the completion of such election inspectors in each primary district shall make the result thereof, and shall make up in the each party a written statement of such result, such primary district, and also a duplicate thereof as the duplicate statement. Immediately after the same, such board shall file the originals thereof in the city, town or village records, and shall file the duplicate statement in the city, town or village records. In cities having more than one million population inspectors shall also make and sign a police return similar to that required by the general election by section seventy-two of this chapter, and such return and its in the same manner by the same officers as is provided in the same manner of the result of the election to be delivered to the police.

Derivation: Formerly section 87, and amended in effect May 15, 1916.

§ 88. Preservation of records and papers.

At all reasonable times any watcher shall have reasonable opportunity to make a transcript of any such statement, or any portion thereof and any candidate shall be entitled to receive, upon demand, a written statement showing the result of the primary election so far as he is concerned.

After the close of the canvass of the votes at official primary elections, the ballots of each party cast thereat, except the protested, void and wholly blank ballots, shall be tied together, labeled and replaced in the ballot boxes from which they were respectively taken, and such ballot boxes shall then be securely locked and sealed, and, together with the box containing the stubs, shall be returned to the officer from whom they were received, who shall safely keep the same, subject, however, to be produced upon the order of any court of record or judge thereof, for not less than thirty days after such primary election, and until all suits or proceedings before any court or judge touching the same shall have been finally determined, when the ballots and stubs shall be removed and without examination, destroyed. In the case of a contested nomination for office or a contested election to a party position any candidate shall be entitled as of right to an examination in person or by authorized agents of any primary ballots upon which his name lawfully appeared as that of a candidate; but the court shall prescribe such conditions, as of notice to other candidates or otherwise, as it shall deem to be necessary and proper. The custodian of primary records shall preserve for at least two years all books, records, petitions, objections, certificates and papers filed with him under any provision of law for a period of at least two years, at the expiration of which time all such books, records, petitions, objections, certificates and papers may be destroyed by such custodian.

Derivation: Formerly § 62. Renumbered and amended by L. 1911, ch. 891; amended by L. 1913, ch. 820, in effect Dec. 17, 1913. Originally revised from Primary Election Law, § 8, subd. 3, as amended by L. 1905, ch. 207, § 1.

§ 89. Canvass of statements of results; certificates of election to party position.

1. Canvass by custodians of primary records. The custodian of primary records shall forthwith proceed to canvass the statements of results filed with him as provided in this article, and shall com-

... election district,
said party for such public
position. Said custodian
didate, if he be elected to
election.

The candidate for a party
election to a party position, to
wholly within the jurisdiction
and greater than an election of
received the highest number of votes
a party in such district shall receive
for the public office, or be elected
he was designated or voted for. The
shall deliver upon request to such
party position, a certificate of such

The custodian of primary records
tary of state a statement of the vote
mary election by the enrolled voters
for all candidates for nomination for
to party position, whose designations
to be filed in the office of the secretary
shall be filed by such custodian in the office
within one hundred and twenty hours
on which the primary election was held.

2. Canvass by the secretary of state.
shall forthwith proceed to canvass the certificate
with him, and such canvass shall be made separately
didates of each party.

The candidate voted for at an official primary election who has the highest number of votes shall receive the nomination of said party for the public office, or be elected to the party position, for which he was designated or voted for. The secretary of state shall forthwith transmit to each candidate elected to a party position a certificate of such election.

3. A certificate of election to party position at an official primary of a party duly issued as herein provided shall entitle the person to whom it is issued to membership in the committee or to a seat in the national convention to which he is elected. Upon the completion of said canvass to be made by the secretary of state, he shall prepare certified statements of the result of the primary election of each party participating therein.

4. The statements of result of any official primary election filed or prepared in the office of a custodian of primary records or of the secretary of state showing the nomination of a party candidate for public office at an official primary election shall be equivalent to a certificate of his nomination, and no other certificate of nomination shall be required to be filed for any such candidate so nominated.

Added by L. 1911, ch. 891, and amended by L. 1913, ch. 820 and L. 1914, ch. 244, in effect Apr. 8, 1914.

Duty of custodian is ministerial. — The duty imposed upon the custodian of primary records by this section to deliver the certificate of nomination to the person who, by the statement filed and canvassed, is shown to have been nominated, is ministerial and not judicial, and he has no power to receive or act upon affidavits tending to explain, vary or contradict such statement and he cannot therefore determine that certain votes cast for a candidate having a similar name as one of the other candidates were intended for such other candidate. *People ex rel. Calihan v. Hunt* (1902), 75 App. Div. 33, 77 N. Y. Supp. 973, rev'g 36 Misc. 622. 74 N. Y. Supp. 399.

Nor has the court any power to receive or consider such affidavits in the proceeding instituted to review the action of the custodian of primary records in refusing to issue a certificate of nomination to the relator. *People ex rel. Calihan v. Hunt* (1902), 75 App. Div. 33, 77 N. Y. Supp. 973, rev'g 36 Misc. 622, 74 N. Y. Supp. 399.

§ 90. Filling vacancies and determination of tie vote after primaries.

A vacancy in a nomination for public office made at a primary election shall be filled as follows: A vacancy caused by the declination, disqualification or death of a candidate, or by a tie vote, shall be filled by a majority vote of a quorum of the state committee, if

§ 91. Party nominations for special vacancies.

Party nominations to an office to be filled shall be made in the manner prescribed for the respective parties. A party may nominate in an elective office date for a vacancy in an elective office occurring after the next general election, occurring after the date for the delivery by the chairman to the custodian of primary records of the party of the state committee, if provided for in section seventy-five, shall be filled by a nomination for an office to be filled by a quorum of the members of the committee elected in the political subdivision and otherwise by the members of the committee elected in the political subdivision occurs at the official primary preceding the occurrence of such vacancy is to be filled, or by such other means as may be provided in the rules and regulations of the party may be adopted.

Derivation: Added by L. 1911, ch. 891, and amended by L. 1913, ch. 17, effective Dec. 17, 1913.

§ 92. Unofficial primaries.

Notice of all unofficial primary elections shall be given in the same manner as in the case of official primaries. That such notice shall be given by the proper authorities and shall not be at public expense. Unofficial primaries shall be held in such places within the county as may be determined by the primary election.

secretary of the political committee calling an unofficial primary election, or under whose direction such primary election is held, shall post and keep posted during the election, at or near the entrance to the room where the primary election is held, so that the same is clearly visible from the street, a conspicuous notice calling attention to the place at which the primary election is being held. Unofficial primary elections shall be held at the expense of the party holding them, and, except as herein otherwise provided, shall be subject to the rules and regulations of such party.

There shall be a chairman and secretary for each unofficial primary and there may be tellers. No person shall be entitled to vote at an unofficial primary unless he may be qualified to vote on the day of election.

The chairman may administer any oath required to be administered at any primary and he shall decide all questions that arise relating to the qualification of voters when a voter is challenged by any elector and shall reject such vote unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter and shall state under oath that he is qualified to vote at such primary.

The ballot box used at any primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received, to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass and the signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate, the secretary shall publicly announce the vote and the result of the canvass.

No unofficial primary election shall be held in a saloon or drinking place, or in a room which is more than one flight of stairs from the street or not readily accessible from the street.

Derivation: Former § 50. Renumbered and amended by L. 1911, ch. 891, § 53, in effect Nov. 15, 1911. Originally revised from Primary Election Law, § 4, pt. of subd. 5.

Objection as to notice, when unavailable. — The objection that it does not appear affirmatively that notice of a primary election was published as required at the Primary Election Law cannot be taken for the first time on a review of the determination of the board of elections as to the result, and particularly where the alleged defect was not specified in the petition for a review. *Matter of Kennedy* (1902), 36 Misc. 721, 74 N. Y. Supp. 369.

or which shall be filed with the town clerk such officers are to be voted for and the other elections of the county in which such town certificates shall be filed with such city, village or such board of elections, not less than twenty days before the day of election. All such corrected certificates of nomination, all objections and all declinations of nominations are public records.

Derivation: Election Law, pt. of § 56, as amended L. 1901, ch. 654; L. 1911, ch. 891. Repealed and new 1913, ch. 820, in effect Dec. 17, 1913.

Cross-references. Misconduct in relation to certificates of nomination, Penal Law, § 760 (part 5, post). See also notes to Election Law, §§ 123 and 125.

Forms. — For party certificates of nomination, see Form 1.

Sufficiency of certificate. A paper purporting to be a certificate of nomination for village officers made by the Independence League is not sufficient to warrant placing the names of the candidates on the ballot where it appears that sufficient notice of the proceedings was given. *Matter of Freund* (1907), 53 Misc. 354, 103 N. Y. Supp.

§ 122. Independent nominations.

Nominations made as provided by this and the next section shall be known as independent nominations, and the certificates of nomination made in pursuance of such nominations are made shall be known as certificates of nomination. Independent nominations for public office to be voted for by all the voters of the county shall only be made by six thousand or more voters of the county, and it shall be the duty of the board of elections, however, that in making up such number at least one thousand voters shall be taken from each county of the state (the counties of Fulton and Seneca shall be considered as one county).



election in such political subdivision, excepting that not more than three thousand electors shall be required to make an independent nomination in any political subdivision; and excepting that not more than one thousand five hundred electors shall be required to make an independent nomination for a borough or county office.

Derivation: Election Law, pt. of § 57, as amended by L. 1899, ch. 363, § 1; L. 1901, ch. 654, § 4.

Amended by L. 1911, ch. 891, § 62; L. 1913, ch. 800. In effect Aug. 13, 1913.

Construction.—This section was meant to cover all offices and should not be otherwise construed. *Matter of Fagan*, 21 Misc. 403, 47 N. Y. Supp. 288.

The laws relating to independent nominations should be liberally construed. *Matter of Adams* (1897), 21 Misc. 393, 47 N. Y. Supp. 513.

The provisions of this section contemplate only a single certificate of independent nominations for state offices, which must be subscribed and verified by at least fifty electors of each of the counties of the state, counting Fulton and Hamilton as one. *Matter of McDonald* (1898), 25 Misc. 80, 54 N. Y. Supp. 690.

Independent nomination of alderman in New York city.—Where it appears that an assembly district and an aldermanic district in the city of New York are coterminous, the statutory rule requiring 500 signatures to a certificate of independent nomination for the office of member of assembly will, by analogy, be deemed applicable to an independent nomination for the office of alderman. *Matter of Bullotta* (1905), 108 App. Div. 278, 95 N. Y. Supp. 616; *Matter of Fagan* (1897), 21 Misc. 403, 47 N. Y. Supp. 288.

Although the charter of the city of New York has been altered since the Election Law was enacted so as to provide for the election of an alderman in a district of less extension than a ward, and there is no specific provision in the Election Law for the making of independent nominations in an official district smaller than a town, ward or village, such nomination is embraced within the scope of that part of the above section which provides for independent nominations of candidates for public office to be voted for only by the electors of a town, or ward of a city or village. *People ex rel. Behrmann v. Voorhis* (1901), 168 N. Y. 367, 61 N. E. 283, aff'd 65 App. Div. 11, 72 N. Y. Supp. 393.

Independent nomination of supervisor.—As to number of signatures necessary in order to make an independent nomination for the office of supervisor, see *Report of Atty.-Gen.* (1903), 438.

Right to nominate by independent certificate.—A political body which has acquired the right to nominate by primary and convention thereby loses its right to nominate by independent certificate of nomination, continuing during the period in which the party nominating status or strength of 10,000 votes on office of governor is retained. *Opinion of Atty.-Gen.*, rendered Feb. 15, 1907.

As to nomination of regular party candidates by independent party. see *Fornbacher v. Roosevelt* (1895), 90 Hun. 411, aff'd 14 Misc. 199, 35 N. Y. Supp. 898.

Conflicting nominations.—When there is a contest over two certificates signed by different nominators, the preference of the committee in charge of the general ticket should have great weight in determining who shall be candidate in that column. *Matter of Folks* (1909), 134 App. Div. 376, 119 N. Y. Supp. 71, aff'd 195 N. Y. 540.

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pled with the Board of Elections, nominating candidates who are in opposition to the ticket on which they desire to be recognized merely because it is the first certificate (1909), 134 App. Div. 376, 119 N. Y. Supp. 71, aff'd

independent certificate.—Where the progressive party nominate a candidate for supreme court justice and subseq. by the requisite number of electors of said party who making oath to support such candidate at the polls, the in declaring such certificate invalid, it having been secretary of state. Matter of Hasbrouck (1912), 77 M. City.—The election law in so far as it requires independent candidates for public office, other than municipal candidates in a district less than the whole state, but greater than and for a candidate for member of assembly, to be hundred voters, is unconstitutional and void. People (1912), 206 N. Y. 231.

of 1911 requiring the signatures of 1500 voters for nomination, other than for municipal officers to be voted for the whole state, but greater than a town or ward 800 voters or more of an ascertainable district may for member of assembly to be voted for in such and void, because in some districts of the state the statute are such as unreasonably to deny the opportunity to vote for the candidate of their choice. People Smith (1912), 132 App. Div. 514.

Some of the 1911 amendment may not operate to hinder electors in some districts, the court will not attack from the bad and the act must fall as a whole.

members of said party had a right to nominate a candidate notwithstanding that such candidate had also been nominated for the same office by another political party and it is not necessary that the electors who signed the petition nominating the state and local officers within a judicial district should be the same persons that signed the petition nominating a justice of the supreme court. *Matter of O'Brien* (1912), 152 App. Div. 856.

Several nominations in one petition.—It is improper to include in a petition nominating a justice of the supreme court other nominations not to be elected within the district, for it is improper to include in one petition candidates to be voted for in several districts not coterminous. *Matter of O'Brien* (1912), 152 App. Div. 856.

§ 123. Independent certificates of nomination.

1. Independent nominations shall be made by a certificate subscribed by the required number of such electors, each of whom shall add to his signature his place of residence and make oath that he is an elector and has truly stated his residence. The making of the said oath shall be proved by the certificate of the notary or other officer before whom the said oath is taken, and it shall be unnecessary for an elector who has subscribed a certificate of nomination, as herein provided, to sign any affidavit as to the matter to which he has made oath as aforesaid. The certificate hereinbefore provided for of the notary or other officer shall be in the following form substantially:

"State of New York,

"County of ss.:

"On the day of, in the year, before me personally came (here shall be inserted the names of each and every elector appearing and making oath before the said officer), each of whom was to me personally known and known by me to be the elector whose name and place of residence is subscribed by him to the foregoing certificate and each of the foregoing electors being by me duly and severally sworn did make oath that he is an elector and has truly stated his residence, and that it is his intention to support at the polls the candidacy of the person or persons nominated for public office in the foregoing certificate of nomination.

"(Signature and official title.)"

2. As an alternative method of authentication, in lieu of such acknowledgment, provision may be made in such nominating certificate for a column under the title "witness," for the signature

... , if he be elected to a party position, election.

The candidate for a party nomination to p election to a party position, to be filled by the wholly within the jurisdiction of a custodian c and greater than an election district, ward or ceived the highest number of votes cast in the p a party in such district shall receive the nomina for the public office, or be elected to the party p he was designated or voted for. The custodian o shall deliver upon request to such candidate, if i party position, a certificate of such election.

The custodian of primary records shall duly ce: tary of state a statement of the vote cast in the c mary election by the enrolled voters of each pa for all candidates for nomination for public office to party position, whose designations are required to be filed in the office of the secretary of state. shall be filed by such custodian in the office of the s within one hundred and twenty hours from midn on which the primary election was held.

2. Canvass by the secretary of state. The se shall forthwith proceed to canvass the certified sta with him, and such canvass shall be made separate didates of each party.

The candidate voted for at an official primary election who has the highest number of votes shall receive the nomination of said party for the public office, or be elected to the party position, for which he was designated or voted for. The secretary of state shall forthwith transmit to each candidate elected to a party position a certificate of such election.

3. A certificate of election to party position at an official primary of a party duly issued as herein provided shall entitle the person to whom it is issued to membership in the committee or to a seat in the national convention to which he is elected. Upon the completion of said canvass to be made by the secretary of state, he shall prepare certified statements of the result of the primary election of each party participating therein.

4. The statements of result of any official primary election filed or prepared in the office of a custodian of primary records or of the secretary of state showing the nomination of a party candidate for public office at an official primary election shall be equivalent to a certificate of his nomination, and no other certificate of nomination shall be required to be filed for any such candidate so nominated.

Added by L. 1911, ch. 891, and amended by L. 1913, ch. 820 and L. 1914, ch. 244, in effect Apr. 8, 1914.

Duty of custodian is ministerial. — The duty imposed upon the custodian of primary records by this section to deliver the certificate of nomination to the person who, by the statement filed and canvassed, is shown to have been nominated, is ministerial and not judicial, and he has no power to receive or act upon affidavits tending to explain, vary or contradict such statement and he cannot therefore determine that certain votes cast for a candidate having a similar name as one of the other candidates were intended for such other candidate. *People ex rel. Calihan v. Hunt* (1902), 75 App. Div. 33, 77 N. Y. Supp. 973, rev'g 36 Misc. 622. 74 N. Y. Supp. 399.

Nor has the court any power to receive or consider such affidavits in the proceeding instituted to review the action of the custodian of primary records in refusing to issue a certificate of nomination to the relator. *People ex rel. Calihan v. Hunt* (1902), 75 App. Div. 33, 77 N. Y. Supp. 973, rev'g 36 Misc. 622, 74 N. Y. Supp. 399.

§ 90. Filling vacancies and determination of tie vote after primaries.

A vacancy in a nomination for public office made at a primary election shall be filled as follows: A vacancy caused by the declination, disqualification or death of a candidate, or by a tie vote, shall be filled by a majority vote of a quorum of the state committee, if

§ 91. Party nominations for special election vacancies.

Party nominations to an office to be voted :
tion shall be made in the manner prescribed by
lations of the respective parties. A party non
date for a vacancy in an elective office require
next general election, occurring after the expir
provided for the delivery by the chairman of a
to the custodian of primary records of the certi
vided for in section seventy-five, shall be filled
of a quorum of the state committee, if the v.
nomination for an office to be filled by all the v
and otherwise by the members of the county c
mittees elected in the political subdivision in w
occurs at the official primary proceeding the go
which such vacancy is to be filled, or by such o
the rules and regulations of the party may prov

Derivation: Added by L. 1911, ch. 891, and amended by
effect Dec. 17, 1913.

§ 92. Unofficial primaries.

Notice of all unofficial primary elections shall
same manner as in the case of official primary
that such notice shall be given by the proper party
not be at public expense. Unofficial primary elec
in such places within the unit of representation
ary election is held, as shall be determined by

secretary of the political committee calling an unofficial primary election, or under whose direction such primary election is held, shall post and keep posted during the election, at or near the entrance to the room where the primary election is held, so that the same is clearly visible from the street, a conspicuous notice calling attention to the place at which the primary election is being held. Unofficial primary elections shall be held at the expense of the party holding them, and, except as herein otherwise provided, shall be subject to the rules and regulations of such party.

There shall be a chairman and secretary for each unofficial primary and there may be tellers. No person shall be entitled to vote at an unofficial primary unless he may be qualified to vote on the day of election.

The chairman may administer any oath required to be administered at any primary and he shall decide all questions that arise relating to the qualification of voters when a voter is challenged by any elector and shall reject such vote unless the person offering the vote is willing to be and shall be sworn that he will truly answer all questions put to him touching his qualifications as such voter and shall state under oath that he is qualified to vote at such primary.

The ballot box used at any primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received, to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass and the signing of the certificates thereof. At the close of the canvass of the ballots cast for each candidate, the secretary shall publicly announce the vote and the result of the canvass.

No unofficial primary election shall be held in a saloon or drinking place, or in a room which is more than one flight of stairs from the street or not readily accessible from the street.

Derivation: Former § 50. Renumbered and amended by L. 1911, ch. 891, § 53, in effect Nov. 15, 1911. Originally revised from Primary Election Law, § 4, pt. of subd. 5.

Objection as to notice, when unavailable.—The objection that it does not appear affirmatively that notice of a primary election was published as required at the Primary Election Law cannot be taken for the first time on a review of the determination of the board of elections as to the result, and particularly where the alleged defect was not specified in the petition for a review. *Matter of Kennedy* (1902), 36 Misc. 721, 74 N. Y. Supp. 369.

Derivation: Formerly § 74. Renumbered and amended
amended by L. 1913, ch. 820, in effect Dec. 17, 1913. On
Primary Election Law, pt. of § 10.

ARTICLE 4-B.

CONVENTIONS.

New article and schedule of sections inserted by L. 1911, ch. 891, and repealed by L. 1913, ch. 820, in effect Dec. 17, 1913.

ARTICLE 5.*

NOMINATING CERTIFICATES; EMBLEMS; VACANCIES.

- Section** 121. Certification and filing of nominations for town, village and certain other offices.
- 122. Independent nominations.
 - 123. Independent certificates of nomination.
 - 124. Emblems.
 - 125. Conflict in names or emblems.
 - 126. Supplying omitted emblems.
 - 127. Places of filing independent certificates of nomination.
 - 128. Times of filing independent certificates of nomination.
 - 129. Certification of nominations by secretary of state.
 - 130. Publication of nominations.
 - 131. Lists for town clerks and aldermen.
 - 132. Posting town and village nominations.
 - 133. Declination of nomination.
 - 134. Objections to certificates of nomination.
 - 135. Filling vacancies in nominations.
 - 136. Certificates of new nominations.
 - 137. Death of candidate after printing of ballots, official posters.

§ 120. Party nominations.

Repealed by L. 1911, ch. 891, § 65, in effect Nov. 15, 1911.

§ 121. Certification and filing of nominations for town, village and certain other offices.

A person nominated at a party primary for a town or village office or for a city office to be filled at an election held at a different time from the general election shall receive a certificate of such nomination. It shall be signed by the presiding officer and a secretary of such primary, or, if made by a committee, by a majority of the members thereof, who shall add to their signatures their respective places of residence, and shall make oath before an officer qualified to take affidavits that the affiants were such officers of such primary or that they are members and constitute a majority of such committee, as the case may be, and that such certificates and the statements therein contained are true to the best of their information and belief. A certificate that such oath has been administered shall be made and signed by the officer before whom the same was taken and attached to such certificate of nomination. Such certificate of nomination shall contain the title of the city, town or village office for which such person is nominated and his

* Title and schedule amended by L. 1913, ch. 820, in effect Dec. 17, 1913.

are effective if the time for them to register is expired at the time they signed; if the time to register, their signatures are ineffectual. Matter of Horan (1902), 269, 95 N. Y. Supp. 607.

Where a certificate of an independent nomination committee, named in the certificate to fill any vacancy designated and has no power to fill a vacancy, occurring, the nomination of the candidate attempted to be nominated. Matter 21 Misc. 396, 47 N. Y. Supp. 543.

Name and emblem.—Where there is a contest between local Independence League nominations, the certificate that title is entitled to preference, provided that it was from an "independent body." Matter of Ind. Nominations (1906) rev'g 103 App. Div. 463.

When a body of voters meets for the purpose of organizing a general ticket and a committee has been appointed which chooses a name and subsequently files a petition naming a candidate for the head of the ticket and a committee has been appointed in charge of the canvass and nomination, the name and emblem of such committee and the persons representing them are to be considered as belonging to that political movement. Matter of Folger (1906), 119 App. Div. 376, 119 N. Y. Supp. 71, aff'd 136 N. Y. 540.

Electors in several districts, who are in general sympathy with the city, county and borough candidates, have the right to nominate by petition district candidates and to adopt the emblem as that chosen by nominators of the general ticket. Matter of Wechsler (1909), 134 App. Div. 378, 119 N. Y. Supp. 79.

All electors who hold the same general political view have the right to nominate city, county and borough candidates have a right to use the emblem for district candidates. Matter of Wechsler (1909), 134 App. Div. 378, 119 N. Y. Supp. 79.

Where district nominations are made by two different groups, one claiming to be in general sympathy with the city, county and borough candidates, the views of a committee appointed at a meeting to nominate the city, county and borough candidates are entitled to great weight on the question as to which of the district nominators is in sympathy with the general ticket. Matter of Wechsler (1909), 134 App. Div. 378, 119 N. Y. Supp. 79.

Where a number of independent electors have adopted an emblem and the party name of "Square Deal Party" and nominated a candidate for mayor of the city of Syracuse and a committee representing them has been chosen to fill out the remainder of the ticket, the regular Republican candidate for assemblyman may not procure a petition nominating him for the assembly as an independent candidate under the name and emblem of the "Square Deal Party," without the consent of such committee, and, by filing the petition first, acquiring the right to have his name upon the ticket under such party name and emblem. *Matter of Com'r of Elections* (1909), 64 Misc. 620, 120 N. Y. Supp. 580.

Use of name of any organized political party.—This section absolutely prohibits a certificate of independent nomination from including the name of any organized political party, and a certificate filed in 1903 which states the words selected for the designation of the independent party as "The Independent Republican Party" is a clear violation of the statute *Matter of Smith* (1903), 41 Misc. 501, 85 N. Y. Supp. 14.

Use of the name "National Democratic Party" held not a violation of the rights of the "Democratic party." *Matter of Greene* (1896), 9 App. Div. 223, 41 N. Y. Supp. 177.

The adoption by a body of independent voters in a certificate of nomination for a member of assembly of the name "Independent Democratic Party" violated this section, as it includes the name of an organized political party. *Matter of Carr* (1904), 94 App. Div. 493, 88 N. Y. Supp. 107.

The name "Social Democratic Party" is substantially the same as "Democratic Party," and the use thereof is prohibited by this section. *Matter of Social Democratic Party* (1905), 182 N. Y. 442, rev'g s. c. 105 App. Div. 243, 93 N. Y. Supp. 1023, which aff'd 45 Misc. 194, 91 N. Y. Supp. 941.

The name used in this state should be amended by conforming it with that of the national party of which the local party is a branch. *Matter of Social Democratic Party* (1905), 182 N. Y. 442, rev'g 105 App. Div. 243, 93 N. Y. Supp. 1023, which aff'd 45 Misc. 194, 91 N. Y. Supp. 941.

Qualification of assembly nominee.—Whether a nominee is disqualified because he is a commissioner of deeds must be determined by assembly if he is elected as a member of assembly. *Matter of Independent Nominations* (1906), 186 N. Y. 268.

Qualifications for signing independent petition.—To disqualify an elector for signing an independent petition, he must not only have voted at the primary election, but he must have voted for a candidate for the office sought to be filled by the petition or for delegates to a convention called to name such a candidate. *Matter of Commissioner of Elections* (1909), 64 Misc. 620, 120 N. Y. Supp. 580.

Participation in a so-called caucus choosing independent nominees does not debar the participant from joining in the execution of an official certificate of an independent nomination. *Rept. of Atty.-Gen.* (1911), Vol. 2, p. 269.

After participating in one independent nomination a voter is disqualified from participating in another independent nomination to the same office. *Rept. of Atty.-Gen.* (1911), Vol. 2, p. 248.

An elector to be qualified to sign a certificate of independent nomination need not have been registered at the time; it is sufficient if he

such nature to be a legal fraud within the meaning of the statute. The duplication of names, however, must be regarded as a legal fraud under the statute and the same cannot be counted where the same name appears. Matter of Independent Certificate (Mayor of New York) (1912), 78 Misc. 84.

As to when independent certificate will be declared void by reason of persons not registered and duplicated names, see, also, Matter of Independent Certificate (Assessors of Cohoes) (1912), 78 Misc. 86.

Where, after a certificate for independent nomination for assembly had been signed and verified by 519 electors, it was found that the candidate was ineligible for the office and without authority of the signers the name and address of another person was substituted for the name and address of the original address and without further verification said certificate was filed with the board of elections. The certificate "is fraudulent and forged," within the meaning of this act, and the name appearing thereon and is to no effect. That the person who changed acted in good faith under legal advice does not alter the effect of his act. Matter of Shook (1912), 78 Misc. 89.

Evidence of signature by election.—Although section 123 requires an affidavit by an elector that he did not sign the sheet as "prima facie evidence" that he did not do so, the same effect is produced by each form of expression. Both the notarial certificate and the affidavit are *prima facie*, not conclusive, evidence of the fact of signing. When questioned, is to be determined by the court. Matter of Shook (1911), 146 App. Div. 520, 521, *aff'd* 203 N. Y. 293.

§ 124. Emblems.

It shall be the duty of the state committee of a political party to select some simple device or emblem to designate and distinguish the candidates of the party for public office. Such device shall be shown by a representation thereof upon a certificate, which shall be duly executed by the chairman and secretary of the state committee, which certificate shall be filed with the board of elections.

to be voted for by the voters of the entire state, it shall be the duty of the persons who shall sign and execute the certificate of nomination of such candidate or candidates, to likewise select some simple device or emblem to designate and distinguish the candidate of such independent body making such nomination, and such device or emblem shall be shown by the representation thereof upon such certificate of nomination. The device or emblem so chosen, when filed as aforesaid, shall be used to designate and distinguish all the candidates of the same party or independent body nominated by such party or independent body, or duly authorized committee or primary thereof, in all districts of the state and shall continue to be used to designate and distinguish the candidates of such party or independent body in all districts of the state until changed by the state committee of the party or by the independent body choosing such device or emblem. The device or emblem chosen as aforesaid may be a star, an animal, an anchor, or any other appropriate symbol, but neither the coat of arms or seal of any state or of the United States, nor the state or national flag, nor any religious emblem or symbol, nor the portrait of any person, nor the representation of a coin or of the currency of the United States shall be chosen as such distinguishing device or emblem.

Existing devices or emblems, heretofore chosen pursuant to law, shall continue until changed in the manner provided in this section as hereby amended.

Derivation: Election Law, pt. of § 56, as amended by L. 1898, ch. 335; L. 1901, ch. 654. Amended by L. 1913, ch. 820, in effect Dec. 17, 1913.

Consolidators' note.—"A certificate signed and duly executed by the proper parties authorized for that purpose," at the end of the sentence imposing the duty of selecting an emblem on an independent body, is changed to "such certificate of nomination." for the reason that there can be no "proper parties authorized for that purpose," but the emblem is included in the original nominating petition. The expression may have been intended to include the case of action by a committee designated "for the purposes specified by section sixty-six" (new §§ 135 and 136). The exceptional case is fully guarded in the sections governing it.

Purpose of emblem.—The object of the Election Law is to secure to each voter the right to cast his ballot for the party of his choice, and to this end the emblem is required, so that the illiterate voter may be secure in his choice; and the designation by name is made for the benefit and security of the voter who can read. Matter of Greene (1896), 9 App. Div. 223, 41 N. Y. Supp. 177.

Right to emblem.—The Independence League, having selected the balance scales as an emblem, and filed valid certificates of nomination for certain offices selecting that emblem, its right to such emblem is secured; and it is immaterial whether the League certificate of nomination for member of congress was filed before the certificate of another candidate for that office, selecting the same emblem, as the League candidate has a prior right to such emblem. Matter of Fitzgerald (1906), 51 Misc. 491, 100 N. Y. Supp. 753.

be selected as directed by the statute. Matter of Bro
App. Div. 144, 102 N. Y. Supp. 217.

A large body of independent voters who entertain views and who act in harmony and nominate a complete column favorable to their choice to be voted for at an election, held in conjunction with the state election, as all their nominees both for city and state offices placed in a single column under the same emblem. Matter of Wise (1905), 108 App. Div. 52, 95 N. Y. Supp. 843.

The persons executing the respective certificates of nomination for the purpose of selecting a name and an emblem for use on a ballot, to be regarded as one and the same "Independent" column. Matter of Wise (1905), 108 App. Div. 52, 95 N. Y. Supp. 843.

An emblem on a certificate of nomination although resembling the emblem of "Liberty" as used on some of the earlier coins, is not a violation of this section. Rept. of Atty.-Gen., Oct. 2, 1905.

§ 125. Conflict in names or emblems.

If two or more different parties or independent bodies select the same, or substantially the same, device or emblem, or party name, the supreme court or any justice thereof, or the judicial district or any county judge within his county, or the clerk of any of said parties or independent bodies is entitled to decide as to the use of such device or emblem or party name, being guided by the facts as may be in his decision by priority of selection in the case of the device or emblem, and of use in the case of the party name. If one party or other party or independent body shall present no other device or emblem or party name after such decision, the custodian of the ballot shall select for such other party or independent body the device or emblem or party name, so that no two different parties or independent bodies shall be designated by the same device or emblem or party name. No two or more factually the same, or substantially the same, device or emblem or party name shall be used by a division within a party, and two or more factually the same, or substantially the same, device or emblem or party name shall not be used by two or more parties or independent bodies.

sufficiency, validity, or legality of any certificate, shall be determined upon the application of any citizen by the supreme court, or any justice thereof, within the judicial district, or any county judge within his county, who shall make such order in the premises as justice may require, but the final order at special term must be made on or before the twelfth day or, in the case of a certificate of nomination of a town or village officer, the seventh day preceding the day of election. Such question shall be heard upon such notice to such officers, persons or committees as the said court or justice or judge thereof shall direct.

The supreme court, at special term, in any judicial district in which two or more proceedings are pending in such district under the provisions of this section may, by order, consolidate all such proceedings and provide that further proceedings therein be had before such court at special term, in all cases where the question or questions involved are identical. If one or more of such proceedings be pending before a justice or county judge, notice of such order shall be forthwith given to such justice or judge.

Derivation: Election Law, pt. of § 56, as amended by L. 1898, ch. 335; L. 1901, ch. 654.

Amended by L. 1911, ch. 649; L. 1913, ch. 820, and L. 1914, ch. 244, in effect Apr. 8, 1914.

Cross-references.—As to use of name of any organized political party, see Election Law, § 123 and note. As to emblems, see note to Election Law, § 124. See also notes to sections 121 and 122 of Election Law.

See, generally, *Matter of Werther* (1916), 94 Misc. 681, 158 N. Y. Supp. 321.

Hearings on legality of nominations, etc., by filing officer.—Where a dispute arises owing to the substantial identity of names or emblems chosen by two political parties, it is to be determined by the officer with whom the certificates of nomination are filed. Under the statute such officer must decide the dispute by determining as a matter of fact the "priority of designation in the case of a device or emblem, and of use in the case of the party named" irrespective of the filing of the certificates. *Matter of Smith* (1901), 36 Misc. 292, 73 N. Y. Supp. 463.

The provision authorizing the officer with whom certificates of nomination are filed to select the device or party name for factional candidates, applies where conflicting nominations are made between two conventions, each claiming to be regular representatives of a political party. *People ex rel. Ward v. Roosevelt* (1897), 151 N. Y. 369, 41 N. Y. Supp. 572.

Where questions of procedure in political conventions, or the regularity of committees are involved, which are regulated solely by party usages and customs, the officer called upon to determine such questions should follow the decisions of the regularly constituted authority of the party; and courts in reviewing the determination of such officers should not in any way interfere therewith. *Matter of Fairchilds* (1897), 151 N. Y. 359, 45 N. E. 943, rev'g 9 App. Div. 624.

Where a notary public through inadvertence fails to swear some of the signers of the certificate of nomination, he may explain such error to the officer filing the certificate, by affidavits, and the officer is bound to accept the evidence and deduct the number of the persons who were not sworn from the total number of signers of the certificate. *Matter of Adams* (1897), 21 Misc. 396, 47 N. Y. Supp. 543.

The proceedings had before the officer filing the certificate are summary in their nature, and the rules, as to pleadings, objection or evidence, should not be strictly maintained as in a civil action. *Matter of Adams* (1897), 21 Misc. 396, 47 N. Y. Supp. 543.

select another name in place of the one chosen named in the certificate upon the official ballot new party. Matter of Carr (1904), 24 App. Div.

Clerk with whom a certificate of nomination whether the parties named in such certificate a Atty.-Gen. (1904), 270.

Proceedings to review determination of o may be heard on affidavits. Matter of Adams Y. Supp. 543.

The hearing, in a proceeding to review the officer, must be confined to papers upon which was based. Matter of Fairchild (1897), 151 N. 9 App. Div. 621; Matter of Commissioner of I 620, 120 N. Y. Supp. 589.

It will be presumed in these proceedings that by affidavits presented to the officer filing the co rejected by him were proved. Matter of Ada 47 N. Y. Supp. 543.

It is the duty of courts and judges entertaining Election Law to speedily decide the questions p ter of Hennessey (1900), 164 N. Y. 323, rev'g 54.

Where a state nominating convention determine court will reverse the determination unless it is result of fraud or oppression. Matter of Nash (1902 Supp. 1957.

The objection that it does not appear affirmatively election was published as required by the Primary taken for the first time on a review of the deter elect: is as to the result, and particularly where t specified in the petition for a review. Matter of 721, 74 N. Y. Supp. 369.

Notwithstanding the fact that an election has be the question involved in proceedings to review the c cannot effect the result of that election, yet, where of public interest affecting the rights of all the vote will determine it. Matter of Coddabach (1902

isions of party conventions, committees or caucuses are not binding and have no weight with the court. *Matter of Broat* (1894), 6 Misc. 445, 27 N. Y. Supp. 176; *In re Heacock* (1896), 18 Misc. 311, 41 N. Y. Supp. 161.

Jurisdiction.—Under this section a court or judge has nothing to review unless there is a determination made by the board of elections in respect to the nomination of candidates. *Matter of Candidates for Member of Assembly in 32d Dist.* (1905), 108 App. Div. 361, 95 N. Y. Supp. 616.

The judicial district or county, within which to review the determination of the filing officer upon a contested certificate of nomination, is the district or county within which the complainant and respondent reside and where the transaction arose which was the subject of the determination. *Matter of Fairchilds* (1897), 151 N. Y. 359, 45 N. E. 943, rev'g 9 App. Div. 624.

A political convention is a law unto itself, but, where the duty is cast upon courts and judges to determine the regularity and fairness of political methods, those methods must be subjected to the same tests as would those of any other body of men whose good faith is questioned, and no court or judge would be justified in sustaining them when found to be inconsistent with that degree of sound morals which must characterize an ordinary affair of business, even though they be recognized and approved by senatorial and state conventions of the same political organization. *Matter of Woodworth* (1891), 16 N. Y. Supp. 147.

It is not in the province of the court to decide abstract questions of law in proceedings to review the determination of an official filing certificate of nomination, which could have no effect upon either candidate or upon the election. *Matter of Woodworth* (1892), 64 Hun, 522, 19 N. Y. Supp. 525.

The question whether a person named in a certificate for an independent nomination is disqualified from election as member of assembly cannot be determined in a proceeding to review a determination of filing officers. *Matter of Independent Nominations* (1906), 186 N. Y. 268, rev'g 103 App. Div. 463.

Neither the Supreme Court nor a justice thereof has jurisdiction under this section to entertain a summary proceeding to determine the sufficiency of a petition filed by the town clerk, requiring the submission of local option questions to the electors of a town. *Matter of Town of Newburgh* (1904), 97 App. Div. 438, 89 N. Y. Supp. 1065.

A citizen and prohibitionist voter who resides in the first judicial district may review there the adverse determination of the secretary of state although he resides in the third judicial district. *Matter of Gillespie v. McDonough* (1903), 39 Misc. 147, 79 N. Y. Supp. 182.

An application for an order overruling the decision of an officer with whom a certificate of nomination is filed is a special proceeding as defined by the Code of Civil Procedure, and the general term may entertain an appeal from an order affirming or overruling the determination of such officer, when the appeal can be heard and determined in due season. *Matter of Mitchell* (1894), 81 Hun, 401, 30 N. Y. Supp. 962.

An order by a justice of the Supreme Court determining the right to file a certificate and reviewing the original determination of the county clerk, is appealable to the appellate division of the Supreme Court. *Matter of Emmett* (1896), 150 N. Y. 538, 44 N. E. Rep. 1102, rev'g 9 App. Div. 237; *Matter of Mitchell* (1894), 81 Hun, 401, 30 N. Y. Supp. 962.

Under the provisions of section 56 of chapter 680 of the Laws of 1892, as amended in 1895, a judge of the Superior Court, of Buffalo, had power to make an order requiring a county clerk to file certificates of nomination and reversing the decision of county clerk that the certificates were not entitled to be filed. *Matter of Cuddeback* (1896), 3 App. Div. 103, 39 N. Y. Supp. 388.

first filed should be recognized. Matter of C (1909), 64 Misc. 620, 120 N. Y. Supp. 580.

The justice may take judicial notice of the fact designated as the residence of a signer of a petition of a member of assembly is not included in the street so designated is wholly outside its bounds and not take judicial notice of the fact that, where partly outside the assembly district, a given residence is outside such district. Matter of Commissioner of Elections (1909), 64 Misc. 620, 120 N. Y. Supp. 580.

Party to review.—A county clerk has the right to review an order commanding him to do so if he deems to be a violation of the statutes of the county and he has no pecuniary interest in the act does not constitute a violation. Matter of Cuddeback (1896), 3 App. Div. 103, 39 N. Y. Supp. 103.

The provision of this section allowing a review of "any citizen" must be understood as referring to a proceeding instituted by filing objections with the certificate of nomination. Matter of Social Democratic Party (1905), 105 App. Div. 243, 93 N. Y. Supp. 194, 91 N. Y. Supp. 911.

Time within which order may be made.—The order must be made on or before the last day fixed for nominations to fill vacancies in the directory and where the court has acquired jurisdiction and the order is made within the time required by the statute its order is valid though made after the expiration of such time. Matter of Cuddeback (1900), 164 N. Y. 393, rev'd 54 App. Div. 180; Matter of Cuddeback (1906), 108 App. Div. 335, 96 N. Y. Supp. 144.

After the time for filing certificates to fill vacancies in the directory of the court to entertain summary proceedings for the determination of a commissioner of elections has not entertained a proceeding to determine whether a petition is only defective when the time to correct defects has expired. Independence League Nominations (1906), 51 Misc. 760.

The court

given party. *Matter of Emmett* (1896), 150 N. Y. 538, 44 N. E. 1102, rev'g 9 App. Div. 237.

The provision of the statute that the order reviewing the determination must be made on or before the last day fixed for filing certificates of nominations to fill vacancies, applies to the original order which is appealed from, and the appellate division can review this order and make a determination of the appeal after that date. *Matter of Emmett* (1896), 150 N. Y. 538, 44 N. E. 1102, rev'g 9 App. Div. 237.

The provision of this section (prior to the amendment of 1914) that an order of the Supreme Court relating to the sufficiency of a petition for an independent nomination must be made within fifteen days of the election is merely directory, and objections to a petition for an independent nomination for the assembly filed on the day registration was completed or as soon as the validity of the petition could be ascertained is sufficient. *Matter of Stoddard* (1913), 128 App. Div. 525.

Use of word "progressive."—The use of the word "progressive" by any organization other than "the National Progressive party" though in conjunction with other names would tend to create confusion and a loss of votes through inadvertence on the part of some electors, and under this section the court has jurisdiction to pass upon the right to the use of said word in a certificate of nomination. *Matter of Kaufman* (1912), 78 Misc. 72.

§ 126. Supplying omitted emblems.

If a party or independent body shall have nominated candidates to be voted for by the voters of the entire state, in any year, and shall have no device or emblem, selected and certified as required by this chapter, to distinguish such candidates, it shall be the duty of the secretary of state to select a device or emblem for that purpose, and such device or emblem so chosen shall be used to distinguish all candidates of that party or independent body throughout the state, whether such candidates are nominated for state or local offices; and if any certificate of nomination of candidates to be voted for by the voters of a district less than the entire state shall be filed with the secretary of state, or with any public officer pursuant to this article, by an independent body, or if nominations for such offices be made by a party, which independent body or party shall have made no nomination of candidates for offices to be filled by the voters of the entire state, and such independent certificate of nomination shall omit or the state committee of such party shall have omitted to select a device or emblem to distinguish the candidates thus nominated, it shall be the duty of the secretary of state or other public officer with whom an independent certificate of nomination for such offices is required by this chapter to be filed to select a device or emblem to represent such candidates.

Derivation: Election Law, pt. of § 56, as amended by L. 1898, ch. 335; L. 1901, ch. 654. Amended by L. 1913, ch. 820, in effect Dec. 17, 1913.

§ 127. Places of filing independent certificates of nomination.

Independent certificates of nomination of candidates for office to be filled by the voters of the entire state, or of any division or district greater than a county, shall be filed with the secretary of state, except that each such certificate of nomination of a candidate

be made only by the votes of voters, part of whom are of a county not wholly of New York, shall be filed with the board of elections of such county and in the office of the board of elections of such city, to be elected at the same time at which a general election shall be held shall be filed with the board of elections of such city, village or town, respectively. Such certificates of nomination of candidates for offices of a city, village or town held at a different time from a general election shall be filed with the board of elections of such city, village or town, respectively.

In towns in which town meetings are held at the time of elections, independent certificates of nomination for town office shall be in duplicate, one of which shall be filed with the town clerk of the town in which such office is to be held, and the other with the board of elections of the town in which such town is located. All other independent certificates of nomination shall be filed with the board of elections of the town in which the candidates so nominated are to be voted for.

All such filed certificates and corrected certificates, all objections to such certificates and all decisions thereon are hereby declared to be public records; and it shall be the duty of every officer or board to exhibit without charge to any person who shall request to see the same. It shall also be the duty of each such officer or board to keep such records in a book or books, which shall be open to public inspection, in which shall be recorded the names of all candidates nominated by such certificates, the names of all persons who have objected to such certificates, the title of the office for which nomination is made, the name and position of the person making such nomination, the date of such nomination,

Amended by L. 1911, ch. 891, and L. 1913, ch. 820, in effect Dec. 17, 1913.

Although the minutes and records of a nominating convention have been filed as required by section 10 of the Primary Election Law (now Election Law, § 67), and show that a person has been nominated, such filing of the minutes is not equivalent to the filing of the certificate required by this section. *Matter of Darling* (1907), 121 App. Div. 656, 106 N. Y. Supp. 430, 27d 189 N. Y. 370.

As to filing of certificates of nomination, see Report of Atty.-Gen. (1906), 632.

In twenty-third senatorial district, embracing Richmond and Rockland counties, one wholly within and the other wholly without New York city, certificates of senatorial nominations should be filed only with secretary of state. *People ex rel. Donegan v. Dooling* (1910), 141 App. Div. 31.

§ 128. Times of filing independent certificates of nomination.

Independent certificates of nomination required to be filed with the secretary of state shall be filed not earlier than the sixth Tuesday, and not later than twenty-five days before the day of general election. All other independent certificates of nomination, except those required to be filed with village clerks and with town clerks of towns in which town meetings are held at a time other than the time of general elections, shall be filed not earlier than the sixth Tuesday and not later than twenty days before the day of general election. Independent certificates of nomination required to be filed with village clerks and with town clerks of towns in which town meetings are held at a time other than the time of general elections shall be filed at least ten, and not more than twenty days before the day of election.

In case of a special election ordered by the governor under the provisions of section two hundred and ninety-two of this chapter, independent certificates of nomination for the office or offices to be filled at such special election shall be filed with the proper officers or boards not less than ten days before such special election.

Derivation: Election Law, § 59, as amended by L. 1897, ch. 379, § 12; L. 1898, ch. 363, § 9; L. 1900, ch. 381, § 3; L. 1901, ch. 95, § 13; L. 1902, ch. 405, § 3; L. 1905, ch. 643, § 11.

Amended by L. 1911, ch. 891, and L. 1913, ch. 820, in effect Dec. 17, 1913.

The statutory provision in respect to the time when the certificates of nomination must be filed is mandatory and must be complied with, and after the time has passed a county clerk has no right to receive and file certificates of nominations. *Matter of Cuddeback* (1896), 3 App. Div. 103, 39 N. Y. Supp. 388; *Matter of Halpin* (1905), 108 App. Div. 271, 95 N. Y. Supp. 611; *Matter of McDonald* (1898), 25 Misc. 80, 54 N. Y. Supp. 600.

The board of elections of the city of New York has power to act on

or misc. 579.

Strict construction of the section as to party secretary of state, read in light of section 20 of Election Law, requires party nominations to be filed on the day other than the Monday following the thirty-day period.

59 Misc. 579.

Ed. Note.—The thirtieth day before election always this confusion should be prevented by a statutory amendment.

Where, under strict statutory construction, Saturday was the last day to file party certificates of nomination with the secretary of state, and such secretary had compiled and published in his publication, October 10th, was the last day in accordance with the practice which had been theretofore followed, a certificate filed on that day was held filed in time. *Matter of Bayne* (1910), 69 Misc. 2d 1024, appeal dismissed 158 N. Y. 130.

Filing of certificate with county clerk after business day. A candidate is entitled to file his certificate of nomination at any time before midnight on the last day for filing such a certificate with the county clerk, and is not required to file the same at the county clerk's office provided by statute for keeping the clerk's office open for business. *Matter of Norton* (1898), 34 App. Div. 1024, appeal dismissed 158 N. Y. 130.

Certificate filed with county clerk at any time on last day. *Report of Atty.-Gen.* (1895), 295.

The abstract question of the regularity of filing a certificate with the county clerk after his office has been closed on the last day of the period allowed by the Election Law, is not of such importance as to call for a departure from the practice of the Court of Appeals not to decide abstract questions. *Matter of Norton*, 158 N. Y. 130.

Power to order certificate filed nunc pro tunc.—A nomination presented for filing one week after the time prescribed by law, was held could not be ordered filed nunc pro tunc. *McDonald* (1898), 25 Misc. 80, 54 N. Y. Supp. 690.

When court may give relief.—The statutory requirement that certificates of nomination should be filed in the county clerk's office may occur accidents and mistakes causing delay.

depend upon the particular facts, and the determination of the question rests in the Supreme Court. *Matter of Darling* (1907), 189 N. Y. 570, aff'g 121 App. Div. 656, 106 N. Y. Supp. 430.

Where a certificate of nomination of town officers, intended to be filed in the county clerk's office, is delivered by the chairman of the town convention, in good faith, to the town clerk on the latter's demand and statement that it is his duty to file it with the county clerk, and the town clerk retains it twenty-four hours and mails it to the county clerk so late on the last day for filing that it does not reach the county clerk's office until the next day, and the circumstances indicate, on the part of the town clerk, fraud or a design that the certificate should not be filed in time, an order should be made requiring the county clerk to print the names of the candidates upon the official ballot. *People ex rel. Simmons v. Ham* (1907), 56 Misc. 112, 106 N. Y. Supp. 312.

Writ of mandamus denied where former nomination valid. *People ex rel. McGrath v. Dooling* (1910), 141 App. Div. 29.

Mandamus will not issue to compel the acceptance and filing of certificates of nomination, if they are not tendered for filing twenty days before the election, as required by this section. *People ex rel. Steinert v. Britt* (1911), 146 App. Div. 684, 131 N. Y. Supp. 455.

Where the last day on which certificates of nomination may be filed, as provided in section 128 of the Election Law, occurs on Sunday, such certificates must be filed on the Saturday before. *Report of Atty.-Gen.* (1911), Vol. 2, p. 647.

Mandamus will lie to require the filing of a proper certificate, even though the time specified within which a certificate may be presented has not yet arrived, if it may justly be inferred that defendants will refuse to file any certificate, except one which shall comply with the requirements of the statute. *People ex rel. Hotchkiss v. Smith* (1912), 152 App. Div. 514.

§ 129. Certification of nominations by secretary of state.

The secretary of state shall, fourteen days before the election, or nine days before a special election, certify to the board of elections of each county, and to the board of elections of the city of New York, the name, residence and place of business, if any, of each candidate either nominated in any certificate so filed with him, or to whom he has issued a certificate, for whom the voters of any such county or said city, respectively, may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem or device chosen to represent and distinguish the candidates of the political party or independent body making such nominations.

Derivation: Election Law, § 60, as amended by L. 1897, ch. 379, § 13; L. 1901, ch. 95, § 14; L. 1905, ch. 643, § 12.

Amended by L. 1911, ch. 891, § 62, in effect Nov. 15, 1911.

Certificate binding on local authorities.—The certificate of the secretary of state as to the names of candidates of state offices, emblems of parties and order of position on the ballot is binding on the local election authorities, and the ballot should be printed accordingly. *Fernbacher v. Roosevelt*, 14 Misc. 199, 35 N. Y. Supp. 898 (1895), aff'd 90 Hun, 441.

represent a list of all nominating
offices other than town offices to be filled at s
to such board by the secretary of state, or file
certified by such board. The board of electio
York shall, within the same time before an el
lic office, cause to be published in two newspap
borough within such city a list of the nomin
for office to be voted for at such election in s
tively, which were certified to such board by t
or filed in the office of such board, or certified
the borough of Brooklyn the board of electio
publication to be made in the newspapers desig
newspapers of said borough and in one daily i
in the Jewish language.

Such publication shall contain the name and
city, the street number of the residence and p
any, and the party or other designation of eac
fac simile of the emblems or devices selected
prescribed by this article, to represent and dis
dates of the several political parties or indep
city clerk of each city except New York, and th
of the city of New York, shall at least six days b
city officers thereof, held at a different time from
cause like publications to be made as to candid
filled at such city election in a like number o
lished in such city.

One of such publications shall be made in a n
vocates the principles of the political party tha
ing election for governor cast the largest num
state for such office; and another of such public
in a newspaper which advocates the principles of

lications, the officer or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties. The officer or board shall make such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such newspapers. Should the board of elections or other officer find it impracticable to make the publication six days before election day in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election.

Derivation: Election Law, § 61, as amended by L. 1897, ch. 379, § 14, and ch. 608, § 1; L. 1901, ch. 95, § 15; L. 1904, ch. 74, § 1; L. 1905, ch. 643, § 13.

Amended by L. 1911, ch. 891, § 62; and L. 1915, ch. 673, in effect May 22, 1915.

Forms.—As to list of nominations to be published by county clerk, see Forms (part 12, *post*).

The designation of newspapers to publish lists of nominations is reviewable by writ of certiorari, and such proceeding may be instituted by the proprietor of a newspaper which has not been designated. The person or persons making such designation cannot act arbitrarily but must show good faith in carefully considering all evidence presented as to circulation. *People ex rel. Press Publishing Co. v. Martin* (1894), 142 N. Y. 228, 40 Am. St. Rep. 592, aff'g 72 Hun, 354.

Expense of publication.—The rate of compensation fixed by section 3317 of the Code of Civil Procedure for the publication of certain legal advertisements does not govern compensation for the publication of notices under the Election Law relative to the places of registration and election in election districts and the boundaries of said districts. *Mack v. City of Buffalo* (1900), 32 Misc. 330, 66 N. Y. Supp. 679.

§ 131. Lists for town clerks and aldermen.

The board of elections of each county, except those counties which are wholly within the city of New York, shall at least six days before election day send to the town clerk of each town, and to an alderman of each ward in any city in the county, at least five and not more than ten printed lists for each election district in such town or ward, containing the name and residence, and if in a city the street number of residence, and place of business, if any, of all candidates whose certificates of nomination have been filed with or issued by it or been certified to it, and the party or other designation, and also a fac simile of the emblem or device of each political party or independent body nominating candidates to be voted for by the voters of the respective towns and wards. Such lists shall at least three days before the day of election be conspicuously posted by such town clerk or alderman in one or more public places in each election district of such town or ward, one of which lists shall be so posted at each polling place.

by posted in ten public places in
at least one day before the town meeting or
of which copies shall be so posted at each po
town meeting or village election.

Derivation: Election Law, § 63, as amended by L. 18
Forms. — As to list of nominations to be posted by
see Forms (part 12, post).

§ 133. Declination of nomination.

The name of a person nominated for an office
an official primary election, shall not be printed
lot if he notifies the board or officer with whom
tificate of his nomination is filed, in a writing
duly acknowledged, that he declines the nomina
nated by more than one political party or inde
name of a person so nominated shall not be pri
of a party or independent body whose nominatio
manner decline. If the declination be of a nom
the secretary of state, such notification shall be giv
days before the election. If the declination be of a
with a board of elections of any county and in th
the city of New York with the board of elections o
York, or with the city clerk of any city, such no
given at least eighteen days before the election.
be of a party nomination filed with a town or v
notification shall be given at least ten days, and
dent nomination at least seven days before the ele
a declination of nomination to a town office in t
meetings are held at the time of general elections,
t office of the board of elections, within the time
tion for filing the declination of nomination.

nations for nomination to such office are required by this chapter to be filed to forthwith notify, by mail, such person of his nomination. A person nominated as aforesaid, without designation, at an official primary, may decline such nomination not later than the seventh day after the day of the primary at which he was nominated, by filing his written declination thereof, signed by him and duly acknowledged, with the board or officer with whom designations for nomination to such office are required by this chapter to be filed.

The board or officer to whom such notification is given shall forthwith inform by mail or otherwise the committee appointed on the face of such certificate as provided by sections one hundred and twenty-one and one hundred and twenty-three of this chapter, that the nomination has been declined, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise that such nomination has been declined, to the several boards of elections or other officers authorized by law to prepare official ballots for election districts affected by such declination.

Derivation: Election Law, § 64, as amended by L. 1897, ch. 379, § 16; L. 1901, ch. 95, § 16; L. 1902, ch. 405, § 4; L. 1905, ch. 643, § 16.

Amended by L. 1911, ch. 891, and L. 1913, ch. 820, in effect Dec. 17, 1913.

Forms. — As to declination of nomination, see Forms (part 12, post).

Declination of nomination. — As to when a nomination of another candidate, where the nominee of a convention declines the nomination, cannot be regarded as filling a vacancy, see *Matter of Halpin* (1905), 108 App. Div. 271, 95 N. Y. Supp. 611.

§ 134. Objections to certificates of nomination.

A written objection to any certificate of nomination may be filed with the officer with whom the original certificate of nomination is filed within three days after the filing of such certificate, excepting that if by any independent certificate of nomination any person is nominated who is at the time or shall be after the filing of such independent certificate of nomination, the candidate of a political party for the same office and the party certificate has been filed after the filing of the independent certificate of nomination, the written objections to an independent certificate of nomination filed be filed within three days after the filing of such party certificate; and if written objections to such independent certificate of nomination have been already filed by the same or some other person and shall have been heard and determined or heard and not determined, there shall be a new hearing upon all the objections so filed. the written objections to an independent certificate of nomination filed after the filing of a party certificate as herein provided may contain all objections to such independent certificate notwithstanding the same or some other person has already filed objections to such certificate. If such objection be filed, notice thereof shall be given forthwith by mail to the committee, if any, appointed on the face of such certificate for the purposes specified in section one hundred

...is usual. Matter of Woodworth
522, 19 N. Y. Supp. 525.

Where no objection to a certificate of nomination is
time prescribed, the officer with whom the certificate is
recognize it as valid and the persons named therein as
nees. Matter of Cowie (1890), 33 N. Y. St. Rep. 710, 11

Proper party to review.—When objections to a certifi-
cation are sustained by the board of elections a review
on the application of the candidate, or of the committee
party which placed him in nomination. Matter of La
App. Div. 146, 102 N. Y. Supp. 200.

Any party interested may apply to the court to invest
between the contending candidates, but a member of a co-
not one of the candidates nominated, is not an interested
of Woodworth (1892), 64 Hun, 522, 19 N. Y. Supp. 525.

A person who is not one of the candidates in a certificat
but who is substituted as a party in place of the county
ceeding to review the determination of the clerk on the
ificate of nomination, cannot appeal from an order of
Supreme Court ordering the county clerk to print on th
the names of certain nominees. Matter of Woodworth
522, 19 N. Y. Supp. 525.

On a review of a determination of the board of elections
New York sustaining objections to a certificate of nomi-
jecting such certificate, the Supreme Court can consider
presented to such board of elections. Matter of Horan (C
Div. 269, 95 N. Y. Supp. 607.

Judicial review prior to action of board.—Although no co-
independent nomination has been presented to the board
filing, the courts will entertain a mandamus proceeding in a
case directing such board to disregard as unconstitutional
a statute held to be void. People ex rel. Hotchkiss v. Smith
Y. 231.

§ 135. Filling vacancies in nominations.

If a nomination is made

to be disqualified to hold office for which he is nominated, or if any certificate of nomination is found to be defective but not wholly void, the committee appointed on the face of such certificate of nomination, as provided by sections one hundred and twenty-one and one hundred and twenty-three of this chapter, may make a new nomination to fill the vacancy so created, or may supply such defect, as the case may be, by making and filing with the proper officer a certificate setting forth the cause of the vacancy or the nature of the defect, the name of the new candidate, the title of the office for which he is nominated, the name of the original candidate, the name of the political party or other nominating body which was inscribed on the original certificate, and such further information as is required to be given by an original certificate of nomination; except that where a certificate is filed pursuant to this section to fill a vacancy, it shall not be lawful to select a new name or emblem, but the name and emblem chosen to distinguish the candidate nominated by the original certificate shall be used to distinguish the candidate nominated as provided by this section.

Derivation: Election Law, § 66, pt. of subd. 1, as amended by L. 1897, ch. 379, § 17; L. 1901, ch. 95, § 17; L. 1905, ch. 49, § 1, and ch. 643, § 17.

Amended by L. 1911, ch. 891, and L. 1913, ch. 820, in effect Dec. 17, 1913.

Consolidators' note.—The words "or the attempt to nominate at a primary results in a tie" were inserted in this section by L. 1905, ch. 49, but the draftsman of chapter 643 of the same year (which amended this and a number of other sections to harmonize the machinery of the Election Law with the new office of commissioner of elections of Erie county created by L. 1904, ch. 394) omitted them, presumably in ignorance of the pendency of the earlier amendment, and both bills passed the legislature without being harmonized. The result is that the original omission to cover the case of a tie vote, once cured, has been recreated.

Forms.—As to filling vacancies in nominations by duly authorized committees, see Forms (part 12, *post*).

Nominations where regular nominee declines.—Prohibition against the nomination of a person already the nominee of an independent body of voters. *Matter of Halpin* (1905), 108 App. Div. 271, 95 N. Y. Supp. 611.

Vacancy to be filled by committee.—The vacancy caused by the refusal of a nominee, after the certificate of nomination is filed and the convention which named him has adjourned, can only be filled by the committee appointed for that purpose. *Matter of Greene* (1907), 121 App. Div. 693, 106 N. Y. Supp. 425.

Where a vacancy was left by a convention of the Prohibition party which was subsequently filled by the duly authorized committee of such party by nominating for office the candidate nominated by the Democratic party, the secretary of state cannot refuse to file, as invalid, a certificate of such nomination. *Matter of Gillespie v. McDonough* (1902), 39 Misc. 147, 79 N. Y. Supp. 182.

Contra.—Committee cannot make an original nomination for an office

with reference to which the convention failed to take any action. Reports of Atty.-Gen. (1901), 292, (1902), 307.

Power of committee.—Although this section allows the committee appointed by a political convention to supply vacancies in a certificate of nomination, fill vacancies, etc., such committee has no power when a certificate of nomination has not been filed within the time required by statute. *Matter of Darling* (1907), 121 App. Div. 656, 106 N. Y. Supp. 430, *aff'd* 189 N. Y. 570.

Where assembly certificates when originally filed did not contain the name of the office as required by the Election Law, they were defective only and not wholly void; and the committee appointed on their face to supply defects, etc., should supply such defects. *Matter of Independence League Nominations* (1906), 51 Misc. 486, 100 N. Y. Supp. 760.

The Election Law provides that when there have been original party nominations the nominations are completed on the filing of the certificate, and when a nomination has been declined the vacancy must be filled by a candidate selected by the nominators. But as such committee having the right to fill vacancies is prohibited from selecting any person who has been nominated as a candidate by any other political party, it follows that the candidate who is nominated by another party cannot be placed under the name and emblem by filing the certificate of nomination by independent voters. What cannot be done directly by the committee cannot be done indirectly by the certificate of nomination. *Matter of Brevillier* (1906), 116 App. Div. 144, 102 N. Y. Supp. 217.

Where a party nominee has duly declined the nomination and filed a certificate to the effect with the board of elections as required by statute, two of a committee of three appointed by the convention pursuant to this section are entitled to nominate a person in his place by filing a new certificate. *Matter of Kirk v. Gallagher* (1911), 146 App. Div. 585.

§ 136. Certificates of new nominations.

The certificate so made shall be subscribed and acknowledged by a majority of the members of the committee, and the members of the committee subscribing the same shall make oath before the officer or officers before whom they shall severally acknowledge the execution of the said certificate that the matters therein stated are true to the best of their information and belief. Except in case of the death of a candidate after the official ballots have been printed and before election day, the said certificate shall be filed in the office in which the original certificate was filed, at least five days before election, if filed in the office of a town or village clerk; otherwise at least fifteen days before the election; and upon being so filed shall have the same force and effect as an original certificate of nomination. When a new certificate of nomination is filed with the secretary of state, he shall, in certifying the nomination to the various boards and officers, insert the name of the person who has been thus nominated, instead of that of the candidate nominated originally, or, if he has already sent forward his certificate, he shall forthwith certify to such boards and other officers the name

of the person newly nominated, and such other facts as are required to be stated in such certificate.

Derivation: Election Law, § 66, pt. of subd. 1, as amended by L. 1897, ch. 379, § 17; L. 1901, ch. 95, § 17; L. 1905, ch. 49, § 1, and ch. 643, § 17.

Amended by L. 1911, ch. 891, and L. 1913, ch. 820, in effect Dec. 17, 1913.

A nomination for public office becomes complete only upon filing the certificate of nomination with the proper officers, and then, and not before, does the person nominated become the candidate of a party for that office. *Matter of O'Brien* (1910), 140 App. Div. 467, 125 N. Y. Supp. 260.

§ 137. Death of candidate after printing of ballots; official pasters.

In case of the death of a candidate after the official ballots have been printed, and before election day, the vacancy may be filled by filing the proper certificate of nomination of a candidate to fill such vacancy, with the officer or board with whom the original certificate was filed, or by whom it was issued, and if filed with the secretary of state, the secretary of state shall immediately give the necessary notifications, and it then shall be the duty of the officer or board furnishing the official ballots to prepare and furnish to the inspectors of election in the election districts affected adhesive pasters containing the name of the candidate nominated to fill the vacancy. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type as that used in printing the names of the candidates upon the official ballots, and shall be of a size as large as and no larger than the space occupied upon the official ballot by the name of the candidate in whose place the candidate named upon the paster has been nominated. If, however, the deceased shall be the candidate of several parties or bodies, and they shall not all nominate the same candidate as his successor, a paster shall be prepared which shall contain the entire matter to be contained in the section on which such deceased candidate's name appears, and shall be pasted over the whole section and shall supersede it.

Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the original candidate, the name of the new nominee, the title of the office for which the nomination is made, and the name of the political party or independent body making the nomination, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for such district. Upon the delivery of said pasters, the inspectors of election shall sign a receipt for the same, which receipt shall be retained by the officer or board

Law provides that when there have nominations the nominations are completed on the date, and when a nomination has been declined the filled by a candidate selected by the nominators. But having the right to fill vacancies is prohibited from a who has been nominated as a candidate by any other follows that the candidate who is nominated by another placed under the name and emblem by filing the certificate by independent voters. What cannot be done directly cannot be done indirectly by the certificate of nomination. *Breviller* (1906), 116 App. Div. 144, 102 N. Y. Supp. 2.

Where a party nominee has duly declined the nomination certificate to the effect with the board of elections as required by two of a committee of three appointed by the convention this section are entitled to nominate a person in his place by certificate. *Matter of Kirk v. Gallagher* (1911), 146 App. Div. 144.

§ 136. Certificates of new nominations.

The certificate so made shall be subscribed and attested by a majority of the members of the committee, and the committee subscribing the same shall make oath before the clerk or officers before whom they shall severally swear to the execution of the said certificate that the matters therein are true to the best of their information and belief. If the death of a candidate after the official ballot has been printed and before election day, the said certificate shall be filed in the office in which the original certificate was filed, or otherwise at least fifteen days before the election; and so filed shall have the same force and effect as an original of nomination. When a new certificate of nomination is filed, the secretary of state, he shall, in certifying the nominations to the various boards and officers, insert the name of the candidate.

of the person newly nominated, and such other facts as are required to be stated in such certificate.

Derivation: Election Law, § 66, pt. of subd. 1, as amended by L. 1897, ch. 379, § 17; L. 1901, ch. 95, § 17; L. 1905, ch. 49, § 1, and ch. 643, § 17.

Amended by L. 1911, ch. 891, and L. 1913, ch. 820, in effect Dec. 17, 1913.

A nomination for public office becomes complete only upon filing the certificate of nomination with the proper officers, and then, and not before, does the person nominated become the candidate of a party for that office. *Matter of O'Brien* (1910), 140 App. Div. 467, 125 N. Y. Supp. 260.

§ 137. Death of candidate after printing of ballots; official pasters.

In case of the death of a candidate after the official ballots have been printed, and before election day, the vacancy may be filled by filing the proper certificate of nomination of a candidate to fill such vacancy, with the officer or board with whom the original certificate was filed, or by whom it was issued, and if filed with the secretary of state, the secretary of state shall immediately give the necessary notifications, and it then shall be the duty of the officer or board furnishing the official ballots to prepare and furnish to the inspectors of election in the election districts affected adhesive pasters containing the name of the candidate nominated to fill the vacancy. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type as that used in printing the names of the candidates upon the official ballots, and shall be of a size as large as and no larger than the space occupied upon the official ballot by the name of the candidate in whose place the candidate named upon the paster has been nominated. If, however, the deceased shall be the candidate of several parties or bodies, and they shall not all nominate the same candidate as his successor, a paster shall be prepared which shall contain the entire matter to be contained in the section on which such deceased candidate's name appears, and shall be pasted over the whole section and shall supersede it.

Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the original candidate, the name of the new nominee, the title of the office for which the nomination is made, and the name of the political party or independent body making the nomination, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for such district. Upon the delivery of said pasters, the inspectors of election shall sign a receipt for the same, which receipt shall be retained by the officer or board

The use of any paster upon the official ballot herein provided is hereby declared a felony, punishment in a state prison for not less than one year.

Derivation: Election Law, § 66, subd. 2.

Amended by L. 1911, ch. 891, and L. 1913, ch. 821, in eff

ARTICLE 6.

REGISTRATION OF VOTERS.

Section 150. Meetings for registration.

151. Additional meetings for registration.
152. Conduct of meetings; watchers.
153. Adding and erasing names on register.
154. Register of voters.
155. Register where personal registration is required.
156. Register where personal registration is not required.
157. Preparation and distribution of registry lists.
158. Registration in cities and in villages of five thousand inhabitants.
159. Registration elsewhere.
160. Registration for other than general elections.
161. Registration for town or village elections.
162. Qualifications of voters.
163. Gaining or losing a residence.
164. Illiterate and disabled voters.
165. Change of residence within election district.
166. Registration days not holidays.
167. Preparation of challenge affidavits.
168. Form of challenge affidavits.
169. Challenging applicants for registration.
170. Investigation into truth of affidavits.
171. Duplicate book of challenge affidavits.
172. Disposition of challenge affidavits.
173. Entry requiring challenge by inspectors.
174. Production of naturalization papers.
175. Persons excluded from the suffrage.
176. Certification of register.
177. Making up the registers; custody thereof after registration.
178. Custody and filing of registers after registration in cities of first class.
179. Certifying changes in registers.
180. Custody of registers after election.
181. Certifying number of registered voters.
182. Delivery of blank books for registration; certificates and instructions.
- 182a. Special instructions to voters to be prepared for the year nineteen hundred and fourteen.
183. Delivery of previous registers and poll books to inspectors.
184. Penalties.

§ 190. Meetings for registration.

1. Except as otherwise herein provided, before every general election, the board of inspectors for each election district in every city, and in villages having five thousand inhabitants or more shall hold four meetings for the registration of the electors thereof, at the place designated therefor, to be known respectively as the first, second, third and fourth meetings for registration. The said meetings shall be held on the fourth Friday, fourth Saturday and the third Friday and third Saturday before such election. Each meeting shall begin at seven o'clock in the forenoon, and continue until ten o'clock in the evening. In all election districts other than in cities or villages having five thousand inhabitants or more, the board of inspectors of election for each such election district shall hold two meetings for the registration of voters thereof, at the places designated therefor, before each general election, namely, on the fourth and third Saturdays before the election, to be known respectively as the first and second meetings for registration, which meetings shall begin at seven o'clock in the forenoon and continue until ten o'clock in the evening.

2. In a city having more than one million inhabitants, the board of inspectors for each election district shall hold six meetings for the registration of the electors thereof before each general election. Such meetings shall begin on Monday the twenty-ninth day before such election and continue on each day of the same week up to and including Saturday. On each day except

ation for town or village elections. Constitution.
Law, § 161. Registration days not holidays. Elect
duct of registry officers. Penal Law, § 753 (part 5).

Constitutionality of registration laws. See People
(1890) 119 N. Y. 175.

Hours of closing.---The statutory provision as to
registration at a certain hour refers to the closing of
and inspectors should not refuse to register those w
place of registration at the time of closing. People
(1885) 2 H. w. Pr. (N. S.) 472. See also Report of .

Inspectors may adjourn the meeting during desig
Atty.-Gen., (1902) 322.

§ 151. Additional meetings for registration.

If a special election be called by the govt
other election be appointed by or pursuant to
than the day of general election, the inspect
various election districts in the political subdiv
special or other election is to be held shal
pective districts on the second Saturday pre
from eight o'clock in the forenoon to ten o'e
for the purpose of revising and correcting the
provided in this article.

Former § 151 repealed by L. 1911, ch. 649. See Ele
§ 151 added by L. 1916, ch. 537, in effect May 15, 1916

§ 152. Conduct of meetings; watchers.

No inspector shall on any day for registrati
the hours fixed for registering the names of elec
party or independent body duly filing or entitl
of nominations of candidates for offices to be
election may be a ...

election, appoint not more than two watchers to attend any meeting or meetings of inspectors for an election district held for the registration of electors thereof. Each watcher must be a qualified elector of the county in which the election district for which he is appointed a watcher shall be located, provided that women who are citizens and residents of the county, and of the age of twenty-one years, may act as watchers, with full rights and privileges of such office, at any meeting or meetings, of inspectors for an election district held for the registration of electors thereof, immediately preceding any election whenever held at which a woman suffrage constitutional amendment is to be submitted to the voters except that but one woman watcher for, and one woman watcher opposed to, the adoption of such amendment shall be permitted in each election district. Such watchers may be present at such polling place, and within the guard-rail, from at least fifteen minutes before the commencement of the said meeting until the completion of the duties of the board of inspectors for that day of registration.

Derivation: Election Law, pt. of § 30, as amended by L. 1898, ch. 335, § 4; L. 1901, ch. 300, § 1; L. 1905, ch. 675, § 2.

Amended by L. 1910, ch. 428; L. 1911, ch. 649, and L. 1914, ch. 242, in effect April 3, 1914.

Boards to act ministerially. — The boards of registration of the several election districts of the State act only ministerially in receiving and registering the names of voters. *Matter of Hamilton* (1894), 80 Hun 511, 30 N. Y. Supp. 490.

§ 153. Adding and erasing names on register.

If the board of inspectors at any meeting for the registration of electors shall have neglected or refused to place upon the register of electors the name of any person who is entitled to have his name placed thereon, application may be made to the supreme court, or any justice thereof in the judicial district in which such election district is located, or of a county adjoining such judicial district, or to a county judge of the county in which such election district is located, for an order to place such name upon the register of electors; and such court, justice or judge may, upon sufficient evidence, and upon such notice of such application, of not less than twenty-four hours, to the board of inspectors and

...not be qualified to vote in such
at the election for which such registration is
upon such register, application may be made
any elector of the town or city in which such
located, or by the state superintendent of electi
state superintendent of elections to any court
hereinbefore designated, for an order striking s
register, and such court, justice or judge may, i
dence, and upon such notice of such application
twenty-four hours, to the person interested as
or judge may require, served either personally or
same in the post-office addressed to said person by
the address which appears in the register certifie
of election order such board to strike such name f
of voters, and such register shall be corrected acc
applications to strike the names of voters from t
this section an affidavit by the state superinten
or any of his deputies when duly deputed by t
tendent of elections for that purpose, that investi
by him pursuant to the provisions of section fo
seventy-five of this chapter, and that the affiant
spect the premises claimed by the voter as his r
interrogate an inmate, householder, keeper, c
proprietor or landlord thereof or therein as to the
dence therein or thereat, and that the said affia
by one or more of said persons, naming them

fore election, shall be presumptive evidence against the right of the voter to register from such premises, and in case the court, justice or judge direct that service of the order to show cause may be made by depositing the same in the post-office, such service shall not be complete until a copy of the order to show cause shall also have been served upon the custodian of primary records for the political subdivision in which such election district is located, and upon the chairman of each political committee for the political subdivision in which such election district is located. If upon the hearing of such application the court, justice or judge shall decide that the name of the elector shall be stricken from the register, the order of the court, justice or judge shall direct that the board of elections shall cause such name to be stricken from the register and also from the books of enrollment if it appears therein. In case the elector has, through no fault or neglect of his own, been registered in a wrong election district, the board of elections, upon proper proof, and upon such notice to the chairmen of the county committees of the several parties as the board shall prescribe, may direct that his name be stricken from the register of the district in which he is not a qualified elector and, if he is a qualified elector in an adjoining election district within the jurisdiction of such custodian, may direct that he be registered in the election district in which he is a qualified elector. The proper inspectors of election shall carry out the directions of the board. In a county having a single commissioner of elections or where the duties of a board of elections are performed by a county clerk, such officer shall not have power to make any such direction. In any such county, such direction may be made by the court, upon proper proof. No application to add a name to or strike a name from the register shall be made after a day at least two days prior to the second Saturday before election.

Derivation: Election Law, § 31, as amended by L. 1905, ch. 675, § 3.

Amended by L. 1911, chs. 649 and 740; L. 1913, ch. 820; L. 1917, ch. 703, in effect June 1, 1917.

Consolidators' note.—The expression relating to notice of application to the court has been slightly rearranged in two places, without change of words, in the interest of clearness: in "any of his deputies when duly directed by the state superintendent of elections for that purpose." "directed" is changed to "deputed;" and in "that investigation was made by them," "them" is changed to "him," as its antecedent is singular.

The final clause of the section, providing that the presumption raised by the affidavit of the superintendent or a deputy "may be rebutted only by the oral testimony under oath or affidavit of the elector whose name is sought to be stricken from the register," is omitted, having been held to be unconstitutional in the Matter of the Application of Morgan as to name of Rolle, (1906) 114 App. Div. 45, 99 N. Y. Supp. 775.

Cross-references.—As to qualification of voters for registration, gaining or losing residence, etc., see Election Law, §§ 162-165, and notes thereunder.

...—An order to show cause why the
should not be stricken from the registry list need not
one except such person, although the order provides for
Matter of Griffiths, (1896) 16 Misc. 128, 38 N. Y. Supp. 953

Registration in wrong district.—Where a person neglig
self in the wrong election district, the court cannot relieve
for registration has expired. Matter of Hart, (1898) 25
Supp. 1071, motion for rearg. denied 162 N. Y. 645.

Striking names from registry in New York city.—The
section made by Laws 1905, chapter 675, with reference to
superintendent of elections being presumptive evidence agai
elector to vote, is constitutional, as the legislature may pres
of a fact shall be presumptive. Matter of Morgan (1906)
99 N. Y. Supp. 775.

Such provision making such affidavit presumptive evide
the metropolitan election district, and does not apply to the
It is nevertheless constitutional, as it is adapted to the pecu
existing in that part of the State. Matter of Morgan, (1906)
99 N. Y. Supp. 775.

The provision of this section that notice of the applicat
name of an elector from the register may be served by mail
residence as given, is constitutional. Matter of Morgan, (19
45, 99 N. Y. Supp. 775.

On the hearing of an application to strike a name from
error to exclude competent common-law evidence of the elect
Matter of Morgan, (1906) 114 App. Div. 45, 99 N. Y. Supp. 77

But the provision in this section, that the presumption r
davit of the superintendent of elections, or his deputies, can
by the oral testimony under oath or affidavit of the electo
sought to be stricken from the register, is unconstitutional
excludes other common-law evidence of his right to vote. M
(1906) 114 App. Div. 45, 99 N. Y. Supp. 775.

Presumption where name does not appear on return of lodg
Where it appears that the ---

does not reside at the place named and is not entitled to remain upon the registry list; but such presumption, however, may be rebutted. *Matter of Jacobs*, (1904) 45 Misc. 113, 91 N. Y. Supp. 596.

Application to strike the name of a registered elector from the registry list will be denied where there is any dispute about the facts or grounds for different inferences. *Matter of Jacobs*, (1904) 45 Misc. 113, 91 N. Y. Supp. 596.

A person may have a legal residence at a lodging house or hotel notwithstanding the irregularity of his visits. *Rept. of Atty.-Gen.*, (1908) 412.

Personal appearance before the board of registration of the electors who voted at the last preceding general election in a rural town is not required for their registration, but it is the duty of the board to place their names on the register; and the board will be directed to do so where, being uncertain as to its duty, the members thereof apply to the court for an order directing them in reference thereto. *Matter of Randall* (1911), 73 Misc. 539, 132 N. Y. Supp. 467.

§ 154. Register of voters.

The board of inspectors of each election district in the state shall, at their meetings for registration for the general election in each year, make a quadruplicate register—one copy by each inspector—in the forms hereinafter prescribed, of those persons, and none other, who are or will be qualified to vote in such district at such election, which register, when finally completed, shall be the register of voters of the district for such election. Such register shall be used at all other elections held in such district during the year succeeding the election for which it is made, except for town meetings and village elections for which no registration is required.

Derivation: Election Law, § 32, pt. of subd. 1, as amended by L. 1899, ch. 690, § 5; L. 1901, ch. 113, § 1; L. 1905, ch. 675, § 4.

Cross-references.—Registration books to be furnished by secretary of state through county clerk. Election Law, § 182. Misconduct of registry officers and mutilation, destruction or loss of registry list. See Penal Law, §§ 753, 754 (part 5, post), and Election Law, § 184. As to certification and custody, etc., of register, see Election Law, §§ 176-180.

§ 155. Register; how arranged; signature law.¹

1. This subdivision shall apply to election districts outside of a city having more than one million inhabitants. In all such election districts the register shall be arranged in twenty-four columns, except that in election districts in which personal registration is not required it shall consist of twenty-three columns, of which the first twenty-one

¹ **Information for war census.**—The registers of electors for the general election in the year nineteen hundred and seventeen shall each contain an additional column for replies by the voter to the following questions: "Have

you registered yourself or been registered to your own military or war census in or out of this state since hundred and seventeen? If so, at what address?" Such printed at the head of the column. Below the heading is divided by a light ruled vertical rule. The reply to the be entered in the first section of such column and the question in the second section. Such questions shall be man of the board of inspectors of each voter as he appears at registration, and in an election district where registration be personal, of each voter as he appears before the board receiving a ballot on the day of the general election if previously answered such questions on a day of review question shall be answered.

the nineteenth column shall be entered the date of the registration of the elector. In the twentieth column shall be entered if the elector is in business for himself or with others the name under which he is in business, or, if the elector is employed by some other person, the name of his present employer. If he is not in business and has no employment, the word "none" shall be entered, together with the name under which he was last in business or the name of his last employer, if any. In the twenty-first column shall be entered the street and number, or if it has no street number, a brief description of the location of the place, if any, where he is so in business or employed, or, if unemployed, the place, if any, where he was last in business or employed. The information required to be stated in the twentieth and twenty-first columns shall only be asked in the event that the person offering to register shall not have registered in the same county in the general election immediately preceding. The twenty-second column of the register for any election district in which personal registration is required shall be reserved for the signature, at the time of registration, of any elector who registers personally in any such district, or in case such elector alleges his inability to write, for entering therein the number of the "identification statement for registration day" made by such elector as hereinafter provided. Above each horizontal line in the said twenty-second column shall be printed the words "the foregoing statements are true" and the elector shall at the time of personal registration, sign his name by his own hand and without assistance, using an indelible pencil or ink, below such words on the horizontal line in the register of electors, which register shall be known as the "signature copy." Said signature copy shall be one of the registers, other than the public copy, which signature copy shall be kept by an inspector of opposite political faith from the chairman, and shall be used at the polls on election day. The twenty-third column, or, in the register for an election district in which personal registration is not required, the twenty-second column, shall be reserved for entering the consecutive number on the stub of the official ballot, voted by the elector on

districts in any such city, the register shall be a
nine (at the general election preceding a pre
thirty) columns, and the leaves thereof shall be
to Z. The first column of the register shall be
tration No. of Voter," and in such column shall
time of the completion of the registration on the
tration, a number opposite the name of each pe
beginning with " one " opposite the first name e
indexed A and continuing in numerical order to
last name entered upon the last page of such r
two to twenty-four inclusive shall be filled in on
tration as each voter is registered, and the rema
the times respectively provided. All such colum
priately entitled to indicate their purpose. In th
shall be entered the date of the registration of ea
third column shall be entered the surname of suc
alphabetical order of the first letter thereof, on
the index letter of such surname. In the fourth
entered the christian or given name or names
respectively. In the fifth and sixth columns sha
residence number or other designation, and the n
or avenue of such residence or a brief description
thereof. In the seventh column shall be entered th
floor or room occupied by the elector at the res
him. In the eighth column shall be entered the
householder, tenant



age. In the tenth, eleventh and twelfth columns shall be entered the length of the elector's residence by years, months and days as the case may be, in the state, county and election district, respectively. In the thirteenth column shall be entered the country of his nativity, which shall mean the country, state or province of the elector's birth, irrespective of his former political allegiance. In the fourteenth and fifteenth columns, if the voter be a naturalized citizen, shall be entered the date of the naturalization certificate under which he claims citizenship and the court issuing such naturalization certificate. In the sixteenth, seventeenth, eighteenth and nineteenth columns shall be entered respectively the name of the state, the city or town, the street number and the name of the street or avenue of the residence of such person from which such person last registered or voted, and the year in which he last registered or voted. In the twentieth column shall be entered, if the elector is in business for himself or with others, the name under which he is so in business, or, if the elector is employed by some other person, the name of his present employer. If he is not in business and has no employment, the word "none" shall be entered, together with the name under which he was last in business or the name of his last employer, if any. In the twenty-first column shall be entered the street and number, or if it has no street number, a brief description of the location of the place, if any, where he is so in business or employed, or, if unemployed, the place, if any, where he was last in business or employed. The twenty-second column shall be reserved for the signature of any elector who registers personally, at the time of registration, or, in case the elector alleges his inability to write, for entering therein the number of the "identification statement for registration day" made by such elector as hereinafter provided. Above each horizontal line in the said twenty-second column shall be printed the words "the foregoing statements are true" and the elector shall at the time of personal registration, sign his name by his own hand and without assistance, using an indelible pencil or pen and ink, below such words on the horizontal line in the register of electors,

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register shall be known as the "signature copy." Each copy shall be one of the registers, other than the signature copy shall be kept by an inspector of elections, on faith from the chairman, and shall be used at the election day. In the twenty-third column the person who made the entries aforesaid in registering the voter shall enter his own initials in evidence thereof, which signature shall be made at the same time that the voter is registered. In the twenty-fourth column shall be entered the number on the stub of the official ballot which is given to the voter to enable him to vote as provided in article two of this law. The twenty-fifth column shall be reserved for the entry of the name of the precinct, in which the voter enrolls, or other statement as provided in said article two of this law. The twenty-sixth column shall be entitled "No. of Stub, Election Day," and shall be reserved for entering therein the consecutive number on the stub of the official ballot or set of ballots voted by such voter at the election.

The twenty-seventh column shall be entitled "No. of Stub, Primary," and shall be reserved for entering therein the consecutive number on the stub of the official ballot or set of ballots voted by such voter at the first official primary, whether spring or fall.

of each voter, with the date of each such entry, such record of challenges, oaths, and other facts relating to him as this law requires to be entered in the register and are not otherwise provided for.

3. The provisions of this subdivision shall apply to all election districts in which the registration of electors is required to be personal. If the elector alleges his inability to so sign in the cases provided for in either of the foregoing subdivisions, one of the inspectors, designated by the chairman, shall read to the elector the following list of questions from a book to be furnished said inspector and to be known as "identification statements for registration day," and said inspector shall write down in said book the answers of the elector to said questions: What is your true name? What is or was your father's full name? What is or was your mother's full name? What is your occupation? What is the name of your present employer? If unemployed, what is the name of your last employer? Where is or was his place of business? Are you married or single? Where did you actually reside immediately prior to taking up your present residence; state floor and character of premises? At the bottom of each list of questions shall be printed the following statement: "I certify that I have read to the above named elector each of the foregoing questions and that I have truly recorded his answers as above to each of said questions," and said inspector who has made the above record shall forthwith sign his name to said certificate and date the same. The above questions shall be printed on separate sheets of paper which shall be furnished said inspector bound together in book form and numbered consecutively, and the number corresponding to the number on each sheet containing said list of questions shall be entered when the questions have been answered, in the twenty-second column, in the register of electors in which the electors registering have signed their names. Said book of "identification statements for registration day" shall be kept at all times with the register in which the electors sign their names as hereinbefore provided. A sufficient number of identification statements for registration and election days, bound in book

... by L. 1910, ch. 428; L. 1911, ch. 619;
ch. 537, in effect May 15, 1916.

Consolidators' note.— "The register shall be arranged to 'twenty.' L. 1905, ch. 675, inserted a failed to change 'nineteen' to 'twenty.'"

Cross-references.— Failure of house dweller to answer Law, § 757 (part 5, post). Lodging house keepers to keep registers between September 1 and November Law, §§ 110-115 (part 7, post). As to duty of lodgers to keep register, see Election Law, § 480.

The duties of a board of inspectors of election in a of voters in order to ascertain who are qualified electors is of a ministerial nature but purely ministerial, and the questions to ask are for the sole purpose of testing the intended voter. *Koninski v. Vieser* (1916), 97 Misc. 259, 161 N. Y. Sup.

Requirement that elector sign his name in inspection register.— The provision of the Election Law in relation to a city of a million or more inhabitants, requiring an elector to sign his name in the inspector's register at the time of registration is constitutional. *Abearn v. Elder* (1909), 110 N. Y. App. Div. 900.

The distinction between greater and smaller cities in respect to methods and details for safeguarding elections is proper and violates no constitutional restriction. The provision forbidding the enactment of private or local laws is to be read in connection with that requiring the legislature to make laws "for ascertaining by proper proofs the persons entitled to the right of suffrage." *Estate Const.* art. 1, § 1. *Elder* (1909), 195 N. Y. 493, 88 N. E. 1059, aff'd 130 App.

So long as a law regulating the right of suffrage does not violate the provisions required of electors by the constitution the law is valid. *Abearn v. Elder* (1909), 195 N. Y. 493, 88 N. E. 1059, aff'd 130 App.

Prompting voters in answering questions.— The law shall prompt a voter in answering any question provided only to prompt by another person present upon the election day when the elector is being read the prescribed questions. The answers shall be written down at the time of registration or on election day. An elector is not prevented from gaining information to answer such questions from other sources nor from printed literature. *Rept. of Atty.-Gen.* (1908), 4.

A native of Poland upon becoming a citizen of this State

should not be allowed to disfranchise an otherwise qualified elector. Rept. of Atty.-Genl., (1908) 414.

§ 156: Register where personal registration is not required.

Note. — Repealed by L. 1911, ch. 649. In effect July 13, 1911. See Election Law, § 157, as amended.

§ 157. Preparation and distribution of registry lists; investigation of false registration.

The board of inspectors of each election district shall, immediately after the close of the last day of registration, make and complete one list of all persons registered in their respective districts, in the numerical order of the street numbers thereof, which list shall be signed and certified by the board of inspectors. Such list shall be delivered by the chairman of the board of inspectors to the police captain of the precinct, if any, in which the election district is located, or an officer thereof, or to the town clerk, who shall forthwith deliver the same to the board of elections in the county in which such election district is located. The board of elections of each county containing a city of the first or second class and the board of elections of the city of New York, as soon as possible after the delivery of such lists, and, in the city of New York, within one hundred and eight hours after the close of each annual registration, and elsewhere not less than six days prior to the day of election, shall print in pamphlet form for each ward of any city within their respective counties, or for each assembly district in the city of New York, not less than twenty-five times as many copies of said registration lists as there are election districts in such assembly district or ward, so that each assembly district or ward pamphlet shall contain the lists of the several election districts in such assembly district or ward. Upon the written application of the chairman of the executive committee of the county committee of any political party whose candidates are entitled to a place upon the official ballot to be voted at the election for which the registration is made, the board of elections of such city or of any such county, as the case may be, shall respectively deliver to such chairman five copies of each assembly district or ward pamphlet for each election district within such city, or, in the city of New York, within each assembly

..... designate any case of false registrati
any city of the state in which registration lists
cluding third class cities, it shall be the duty
tions of the county or of such city to afford
including clerical assistance, to every such po
scribing the whole or any part of the registr
the duty of investigation imposed on him und
this section. The board of elections in each c
to the state superintendent of elections three c
phlet printed by it. The remaining pamphlets
distributed in the discretion of the said board
respectively the power to charge for each pa
exceeding ten cents a copy, and any moneys
sale thereof shall be paid to the comptroller o
York or county treasurer of the county for
treasury of such city or county. The boards of
tract for the printing of such lists of registered e
soever it may seem to said board to be most a
contract, but such contract shall only be awa
public notice and to the lowest bidder.

Such lists shall be made and printed as near
following form, to wit:

GRAND STREET.

Residence number or other designation.	Name of elector.
14	Smith, John M.
15	

Amended by L. 1911, ch. 649; L. 1913, chs. 800 and 821; L. 1915, ch. 678; L. 1918, ch. 537; L. 1917, ch. 703, in effect June 1, 1917.

Consolidators' note. — The requirement that the police captain shall report any case of false registration "to his commanding officer and to the board of elections and to the said commissioners of elections," has been changed to "to his commanding officer and in cities of the first class to the board of elections or to the commissioner of elections." New York city has a board of elections, and Buffalo a commissioner (the commissioner of Erie county). There are no other cities of the first class, and no other city has either a board or commissioner of elections.

N. B. — Rochester is now a city of the first class.

Cross-references. — As to mutilation, destruction or loss of registry lists, see Penal Law, § 754 (part 5, *post*), and Election Law, § 184.

Alteration of lists. — Right of inspectors. See Report of Atty.-Gen., (1904) 450.

Failure of inspectors to comply with law in preparing register cannot deprive electors of their votes. People ex rel. Frost v. Wilson, (1875), 62 N. Y. 186.

Unjustified arrest for crime of false registration, due to carelessness of election officers in preparing list by copying wrong address of a voter. Tanzer v. Breen, (1910) 139 App. Div. 10, 123 N. Y. Supp. 497.

§ 158. Registration in cities and in villages of five thousand inhabitants.

In cities and villages having five thousand inhabitants or more, the names of such persons only as personally appear before the inspectors, and who are or will be at the election for which the registration is made, qualified electors, shall be registered for a general election, except that whenever any election district in a village having five thousand inhabitants or more shall embrace within its boundaries territory without the limits of such village, the inspectors shall, at their first meeting for registration for a general election, place upon such register the names of all persons appearing on the register of the last preceding general election who resided without the limits of such village but within the election district and who voted at such last preceding general election, except the names of such electors as are proven to the satisfaction of such inspectors to have ceased to be electors since such general election or to have moved within the limits of such village. They shall also place upon such register, at their first and subsequent meetings, the names of all other persons residing without the limits of the village and within such election district who may then

of each city or village.

Derivation: Election Law, § 33, subd. 1.

Amended by L. 1911, ch. 649; L. 1913, ch. 820;
May 15, 1916.

Consolidators' note.—According to the last sentence inspectors are required "to register the names of persons who will be entitled to vote, and of persons proven to be inspectors who are or will be entitled to vote." On its face it is meaningless. The intention is to require the inspectors to register of persons "known or proven to their satisfaction to be entitled to vote," at the coming election, and the clause is to read so.

Cross-references.—False registration. Penal Law, § 175. Procuring and presenting fraudulent certificate of non-qualification to register. Penal Law, §§ 777-778 (part 5, *post*). Conflicting provisions as to registration. N. Y. Const., art. 2, § 4 (part 2, *post*).

Board of registration act only ministerially in receiving names of voters, and must therefore register all who apply for registration to the formal requirement of the act, and not to registration to any who fail in such conformation. *Matter of People ex rel. Stapleton*, 80 Hun 511, 30 N. Y. Supp. 490; *People ex rel. Stapleton*, 100 N. Y. 175.

Inspectors have no right to refuse registration.—If a person makes the proper statement and takes the required oath, his name must be entered on the list of voters, and the inspectors have no discretion or right to refuse it. The law makes it the duty of the inspectors to register a person who has been refused and applies to the court for registration. If the inspectors refuse to register a person who is in fact a qualified voter, would the court compel the inspectors to register him and then place him in a position that he may cast his vote? *People ex rel. Bd. of Convoysers* (1892), 129 N. Y. 360.

§ 150. Registration elsewhere.

for any general election, as provided in section one hundred and fifty of this article, the inspectors shall place upon the register the names of all persons who voted at the last preceding general election, as shown by the register or poll book of such election, except the names of such voters as are proven to the satisfaction of such inspectors to have ceased to be voters in such district since such general election. They shall also place upon the register at their first and second meetings the names of all other persons who then appear before such inspectors and apply for registration and who are or will be, at the election for which the registration is made, qualified electors, and also, at their first and second meetings, the names of all persons not registered under the foregoing provisions who are known or proven to the satisfaction of the inspectors to be then or thereafter entitled to vote at such election.

Derivation: Election Law, § 33, subd. 2, as renumbered by L. 1809, ch. 630, § 7.

Amended by L. 1911, ch. 649; L. 1913, ch. 820; L. 1918, ch. 537, in effect May 15, 1918.

The name of a voter appearing upon a new register will not be stricken therefrom merely because his place of residence is not stated, for he cannot be deprived of his constitutional right to vote because the board of inspectors failed to perform a clerical duty in filling in his place of residence. *Matter of Matthews* (1911), 143 App. Div. 561.

Section 180 of the Election Law makes it the duty of the board of registration in districts where personal registration is not necessary to place upon the register the names of all persons who voted at the last preceding general election as shown by the register of such election, and it is presumed that they performed their statutory duty in this respect. *Matter of Matthews* (1911), 143 App. Div. 561.

Whatever is necessary to render effective any provision of a Constitution, whether it is a grant, restriction or prohibition, must be deemed implied and intended in the provision itself. Hence, when the Constitution provides that certain voters "shall not be required to apply in person for registration at the first meeting of the" inspectors, it is implied that the legislature is prohibited from passing any statute to the contrary, because that implication is necessary to render the provision effective. *Matter of Fraser v. Brown* (1911), 203 N. Y. 127.

to act independently of a
a voter and to register his name; and their failure
dice his rights but an order may be granted in
Matter of Daniels (1911), 74 Misc. 485.

Constitutionality.—The provisions of this section
ch. 820, requiring proof by the affidavits of house-
holders, in the form prescribed, as the condition of the
without his personal appearance at the first meeting
districts outside a city or village having five thousand
are violative of § 4, art. 2 of the constitution. 1
(1914), 212 N. Y. 514, rev'g 164 App. Div. 922.

§ 160. Registration for other than general

At the meeting of the board of inspectors in
ing five thousand inhabitants or more, for re-
the register for any election other than a ge-
spectors shall retain upon the register of the
the names of all persons qualified to vote at
district which appears upon the register of the
ceding general election in such election district
of such electors as are proven to the satisfaction
to have ceased to be electors of such district shall
placed upon such register, and shall, at such
such register the names of the persons qualified
shall personally appear before the board. If
tor resides within such election district, but in
such village, his name shall be placed upon such
shown to the satisfaction of such board that he
therein.

In cities any elector who has registered in a
such city at the last preceding general election
time shall have removed into another election
city, and who is otherwise qualified to vote at
shall be entitled to be registered in such city.

election a certificate duly signed by the said board of the fact that his name was upon such register and has been erased therefrom because of such removal, and his name shall thereupon be erased from such register. Upon presentation of such certificate by the elector to the board of inspectors of the election district in which he resides, his name shall be placed upon the register for such district. The inspectors must note upon the register opposite the name of such elector the fact of such removal, specifying the election district from which he has removed. They shall carefully attach such certificate to the register.

No elector shall cause his name to be placed upon the register of an election district for any election other than a general election, while his name shall appear upon the register of another district to be used at such election.

Any person who shall violate this provision is guilty of a felony, and upon conviction shall be punished by imprisonment in a State prison for not less than two nor more than five years.

In all election districts other than in cities or in villages of five thousand inhabitants or more, the board of inspectors in preparing for an election other than a general election shall add to the register for the last preceding general election the names of such electors as they know are or are satisfied by proof will be on the day of such election entitled to vote thereat, and shall strike therefrom the names of all persons who are known or are proven to their satisfaction to have ceased to be qualified electors of such election district.

Derivation: Election Law, § 33, pt. of subd. 3, as renumbered by L. 1899, ch. 630, § 7.

Amended by L. 1911, ch. 649. In effect July 13, 1911.

Consolidators' note.—On the presentation of a certificate of removal from one district to another, subdivision 3 required the inspectors to note on the register "the fact of such certificate of removal;" the intent is to require notation of the fact of removal, and "certificate of" has been omitted.

Registration for special election by elector who has moved.—An elector who has removed from the election district in which he registered for the last general election, and who now lives in an election district in which a special election is to be held in order to become entitled to vote at his new residence should apply to the board of inspectors of the district from which he removed. Rept. of Atty.-Gen. (1907), 482.

or absence while employed in the service of the United States, or of the high seas; no any seminary of learning; nor while kept in other asylum, or institution wholly or partly expense or by charity; nor while confined in Any person claiming to belong to any class and referred to in this section shall file with inspectors at the time of registration a written statement where he is actually domiciled, his business address, and to which class he claim statement shall be attached to the register, and inspection, and the fact thereof shall be noted opposite the name of the person so registered.

Derivation: Election L. W. § 34, subd. 2.

Cross References: Certain regulations and conditions voters. N. Y. Const., art. 2, § 3 (part 2, post).

Forms. - Of affidavit as to residence. See Forms (part

A soldier may acquire a residence in the locality in which of his employment in the service of the United States. (1904), 45 Misc. 296, 91 N. Y. Supp. 971.

Persons employed by the United States may gain a residence. Report of Atty. Gen. (1904), 443.

Where a person enlisted in the Spanish-American war and employment under the Government and actually resides in may continue to register for voting purposes from his home there is no question of his good faith. Nor does he lose it he did not deal with the registration officers. The statement domicile, business or occupation therein. It seems, he should section had it been called to his attention. Matter of Joly, 271, 105 N. Y. Supp. 1033.

Student of seminary of learning. One who is present in for the purposes of a school of law does not thereby attain domicile in the State and he is not eligible for the purposes of election in the State. 105 N. Y. 284.

A student at a seminary in the State of New York, who, at the time of his registration, was a resident of the State of New York, and who had been domiciled in the State of New York for the purposes of election in the State, was not entitled to vote in the State of New York. Matter of McGowan, 105 N. Y. 284.

not entitle him to vote in the election district in which such seminary is situated. *Matter of Barry* (1900), 164 N. Y. 18, 8 Ann. Cas. 148, aff'g 95 N. Y. St. Rep. 124, 61 N. Y. Supp. 124.

It is essential to entitle a student, whose legal residence has been previously elsewhere, to vote in the election district in which the seminary which he is attending is situated, that the intent to change his residence be manifested by things which are independent of his presence as a student in the new locality. *Matter of Garvey* (1895), 147 N. Y. 117, 69 N. Y. St. Rep. 393, aff'g and rev'g in part 84 Hun, 611, 32 N. Y. Supp. 689.

A student at a theological seminary is entitled to vote at the place where the seminary is located, where he notifies the proper authorities at the place of his former residence that he has changed his residence and requests his name to be taken from the list of voters, and notifies the proper religious authorities that he has changed his ecclesiastical residence. *Matter of Garvey* (1895), 147 N. Y. 117, 69 N. Y. St. Rep. 393, aff'g and rev'g in part 84 Hun, 611, 32 N. Y. Supp. 689.

The fact that a theological student at a seminary sells books and is a lay reader, or that he teaches, is insufficient to qualify him to vote where the seminary is located. *Matter of Garvey* (1895), 147 N. Y. 117, 69 N. Y. St. Rep. 393, aff'g and rev'g in part 84 Hun, 611, 32 N. Y. Supp. 689.

The statute contemplates a bona fide residence on the part of the student. Although the statute is complied with if a student at the time of registration files a written statement or declaration showing where he is actually domiciled, his business or occupation, his business address, and to which class he claims to belong, he should, in order to establish his good faith and honesty of intention of becoming a resident, declare his intention a certain length of time before the date of registration. Rept. of Atty.-Gen., Apr. 26, 1909.

Person at institution supported at public expense or charity.—The home for aged men in the town of Colonie, county of Albany, is an institution supported wholly or partly by charity, within the meaning of section 3 of article 2 of the Constitution as amended in 1895. Such amendment is not retroactive and does not deprive an inmate of such institution who gained a residence to vote in the district prior to January 1, 1895, of his right to vote therein. *Matter of Batterman* (1895), 14 Misc. 213, 71 N. Y. St. Rep. 515, 35 N. Y. Supp. 593.

The "Home for Aged Men and Couples" in the city of Utica, N. Y., is the residence of its members for the purpose of voting. *Matter of Merrill* (1917), 89 Misc. 353.

An inmate of an institution supported wholly or partly by charity who has gained a legal voting residence in the district prior to the taking effect of the Constitution of 1894 is not deprived of his right to vote by the provisions of section 3 of article 2 of said Constitution. *Matter of Griffiths*, (1896) 16 Misc. 128, 38 N. Y. Supp. 953.

A soldier kept in the Soldiers' Home maintained in a town by the State is a person kept in an "asylum," and does not, when becoming an inmate of the home for the sole purpose of enjoying its benefits, thereby lose his former residence, which remains his domicile for citizenship. *Matter of Smith*, (1904) 44 Misc. 384, 80 N. Y. Supp. 1006.

A person permitted to remain in Bellevue Hospital, which is supported at the public expense, during the pleasure of the superintendent of the institution, who has no authority to employ unpaid help, under an arrangement by which such person is to get his board and lodging and an occasional suit of dead men's clothes, is "kept" in the hospital within the meaning of this section. *People ex rel. McShane v. Hagen*, (1900) 48 App. Div. 203, 62 N. Y. Supp. 816, aff'd 164 N. Y. 570.

The removal to the Soldiers' Home at Bath by a legal voter whose legal residence is in New York city neither gives him a new voting residence at Bath nor deprives him of his old voting residence at New York city; he is temporarily absent therefrom and is legally entitled to vote there on his return. *Silvey v. Lindsay*, (1887) 107 N. Y. 54, 11 N. Y. St. Rep. 185, rev'g 42 Hun, 116, 5 N. Y. St. Rep. 157.

Inmates of an institution partly supported by charity do not gain a residence. Report of Atty.-Gen., (1904) 378.

Prisoners.—The constitutional provision against gaining a residence while confined in a public prison applies to a person committed to such prison, even if the commitment was made upon his own application, notwithstanding the fact that he had no family and no home and made the application for the commitment to gain a home and work in the prison. *People v. Cady*, (1894) 143 N. Y. 100, 60 N. Y. St. Rep. 474.

In general.—The question as to the place at which an elector is entitled

ascertained by him or shall refuse to answer an
challenge affidavit, his name shall not be placed
or if recorded thereon previous to his ascertainment
an elector, the inspectors shall enter in the column
such name the word "disqualified," and no person
allowed to vote on such name at the election.
a person who has signed a challenge affidavit
the inspectors shall enter in the column headed
the register opposite such name the word "a
consecutive number printed on such affidavit.

DERIVATION: Election Law, § 34, pt. of subd. 6, as amended
§ 8; L. 1901, ch. 544, § 1.

AMENDED by L. 1912, chap. 428; L. 1911, chap. 649. In the
CONSOLIDATORS' NOTE:--The last sentence of the new
entry of the word "affidavit" in the register in the old
is now section 170, and is unchanged in substance. The
statements, here omitted, is placed in new section 184, with
ing to penalties.

§ 170. Investigation into truth of affidavits.

At the close of each day of registration the inspectors
detach from the stubs the challenge affidavits signed
during the day and in cities shall deliver them
of the precinct in which the election district is located
thereof, and such police captain or commanding officer shall
immediately cause an investigation of the truth of such
and if such investigation shall prove the same to be false
affecting the right of the challenged person to register
officer shall deliver the same to the district attorney of
with the evidence of the falsity of such affidavit and
shall forthwith present the same to the grand jury of the
election districts outside of cities such affidavit shall be
presented to the sheriff of the county who shall procure
Copies of all such challenge affidavits shall be mailed by
forthwith at the close of each day of registration.
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§ 171. Duplicate book of challenge affidavits.

Derivation: Election Law, § 34, pt. of subd. 6, as amended by L. 1899, ch. 630, § 8; L. 1901, ch. 544, § 1.

Amended by L. 1911, ch. 649, and repealed by L. 1914, ch. 244, in effect Apr. 2, 1914.

§ 172. Disposition of challenge affidavits.

At the close of the last day of registration the inspectors shall file the book of stubs and unused challenge affidavits with the officer from whom it was received by the inspectors and such officer shall preserve it in his office.

The officer or board with whom the original challenge affidavits or copies thereof are filed may destroy the same six months after the date of the election for which they were made, except those which are to be used in any criminal prosecution.

Derivation: Election Law, § 34, pt. of subd. 6, as amended by L. 1899, ch. 630, § 8; L. 1901, ch. 544, § 1.

Consolidators' note.—In the "old" law, the first sentence of this section followed (with one sentence between) what is now section 170. The second sentence was the last sentence of the old subdivision.

§ 173. Entry requiring challenge by inspectors.

If, at a meeting of the board of inspectors for registration, any voter shall, upon oath, declare that he has reason to believe that any person on the register of voters will not be qualified to vote at the election for which the registration is made, the board of inspectors shall place the words "to be challenged" opposite the name of such person, and when such person shall offer his vote at such election, the general oath as to qualifications shall be administered to him, and if he shall refuse to take such oath he shall not be permitted to vote.

Derivation: Election Law, § 34, subd. 7.

Forms.—As to form of oath for record of challenge, see Forms (part 12, post). As to preliminary and general oath required of voter challenged, see Election Law, §§ 362-363.

Power of board to determine question of residence.—Where a voter has complied with all the statutory requirements as to registering, the board of registry cannot determine a contested question of fact as to the residence of such voter. *Matter of Ward*, (1892) 29 Abb. N. C. 187, 48 N. Y. St. Rep. 613, 30 N. Y. Supp. 900.

board may place the name of such naturalized voter upon his furnishing to such board of his right to be registered as a voter.

Derivation: Election Law, § 34, subd. 8, as amended § 5.

Cross References. — Procuring or presenting for naturalization in order to vote. Penal Law, §§ 777, 778.

Production of secondary evidence. — If a party has his naturalization papers in his possession he shall produce them. If they cannot be found, secondary evidence of their contents may be received. *People ex rel. Noel v. Smith*, (1894) 10 Misc. 100, 31 2.

Inability to produce the naturalization papers of a person does not deprive him of his right of proving his citizenship before a board of naturalization by secondary evidence. The person's own oath in the absence of other evidence makes out a prima facie case. *People ex rel. Smith v. Board of Naturalization*, (1880) 59 How. Pr. 500.

A judgment of naturalization by a court of competent jurisdiction cannot be attacked or impeached collaterally by a board of naturalization. *Christern v. Walsh*, (1880) 9 Abb. N. C. 465.

§ 175. Persons excluded from the suffrage.

No person who shall receive, accept, or demand, or pay, offer or promise to pay, contribute, offer to contribute to another, to be paid or used, as a consideration for giving or withholding a vote at an election, or refraining from registering as a voter, or who shall promise to induce another to do so, shall be eligible to vote.

an election, shall vote at such election. No person who has been convicted of a felony shall have the right to register for or vote at any election unless he shall have been pardoned and restored to the rights of citizenship.

Derivation: Election Law, § 34, subd. 10, as added by L. 1901, ch. 654, § 2.

Cross-References.—As to qualifications of voters and exclusion from right of suffrage, see Election Law, § 162, and note thereunder.

Suspension of sentence.—A person against whom sentence has been suspended after verdict has not been convicted of an infamous crime within the meaning of the Constitution or the statutes enacted in pursuance thereof, and is not liable to indictment for voting at an election. *People v. Fabian*, (1908) 192 N. Y. 443, 82 N. E. Rep. 672, rev'g 126 App. Div. 89, 111 N. Y. Supp. 140.

Restoration to citizenship.—Felon must be restored to citizenship before he can vote. Report of Atty.-Gen., (1905) 531.

Alien minor convicted of felony must be restored to citizenship before he can become a naturalized citizen. Report of Atty.-Gen., (1904) 257.

A person convicted of counterfeiting, who upon his release is restored to full civil rights by the federal government, is not debarred by such conviction from voting in the state of New York, if otherwise qualified. Rept. of Atty.-Gen. (1911), vol. 2, p. 407.

§ 176. Certification of register.

At the close of each meeting for the registration of voters, for a general or other election in a city, or in an election district wholly within a village having five thousand inhabitants or more, the inspectors shall append to each book of registration their certificate to the effect that such register as it now is, comprising (here insert the number) names, is a true and correct register of the names and residences of all the voters qualified to vote at such election in such district, who have personally appeared before the board of registration, and such registers so certified shall be presumptive evidence that the names and places of residence contained therein are the names and places of residence given by the persons registered respectively.

At the close of each meeting for the registration of voters for a general or other election elsewhere than in a city, or in a district wholly within a village having five thousand inhabitants or more, the inspectors shall append to each book of registration a certificate to the effect that such register as it now is, comprising (here insert the number) names, is a true and correct register of all voters qualified to vote at such election in such district who have personally applied for registration, or whose names the board was required by law to place thereon.

Each such certificate shall be signed by all the inspectors, but in case one inspector required to sign such certificate shall fail for any reason so to do, he may be required by the officer with whom such register is filed to sign such register at a subsequent date. In all cases a majority of the inspectors must sign such certificate at the close of each day of registration.

Derivation: Election Law, § 25, subd. 1.

The provisions as to certifying and preparing the registers are merely directory, and a failure on the part of the inspectors to properly observe the law in this respect will not operate to invalidate the registers and deprive citizens of their votes. *People ex rel. Frost v. Wilson* (1875), 62 N. Y. 183.

§ 177. Making up the registers; custody thereof after registration.

1. The register of voters made by the chairman of the board of inspectors shall be, and shall be known as, the public copy of registration. Such public copy shall be left in a prominent position in the place of registration from the first day of registration until election day, and shall at all reasonable times be open to public inspection and for making copies thereof. When the

4. Upon the close of the last day of registration, the board shall carefully compare all the books of registration, to see as to their contents, and shall certify as a board in the certificate therefor upon each such register that such register is a true and correct list of persons registered by them in such district for the next election, and shall state the whole number of such persons.

Derivation: Election Law, § 35, pt. of subd. 2, as amended by L. 1900, ch. 630, § 10; L. 1901, ch. 95, § 10; L. 1905, ch. 100, § 9; L. 1906, ch. 630, § 10; L. 1907, ch. 95, § 10; L. 1908, ch. 100, § 9; L. 1913, ch. 678, in effect May 22, 1915.

Concealing registry lists. -- One who induces or procures another to conceal the lists of voters and refuses the public access to the same, is guilty of a violation of law. *People v. McKaig*.
Filing of registration books. See Report of Atty.-Gen. (1915).

§ 178. Custody and filing of registers after registration

1. In cities of the first class, at the close of the last day of registration, the chairman of the board of inspectors shall take the register of voters from himself, the register of inspectors, and deliver it to the police, who forthwith shall file the same in the city of New York, with the board of elections in Manhattan, and with the chief clerk of the branch office of the board of elections in each other borough, and if in any other city, with the board of elections. Such registers so filed shall be a part of the records of the board in which they are filed. The two other inspectors of each city shall retain their respective registers until election day, except as provided in subdivision two of this section.

2. In the city of New York at the close of each day of registration, the chairman of the board of inspectors shall take the register of voters and the book of identification statements, and deliver them to the police, for safe keeping in the police precinct in which the polling place is located. At the hour of the beginning of the next meeting for registration of polls on election day, such inspector shall also deliver to the police possession of such register and book whenever necessary. The provisions of section one hundred and fifty-three of this chapter, as to the delivery of the register to the police, shall be entitled to the delivery to it of such register and book on demand.

3. All registers of voters shall at all reasonable hours be open to public examination and making copies thereof, and no person shall be liable for such examination or for allowing any person to make copies thereof. In cities of the first class the police shall be entitled to the delivery to it of such register and book on demand.

§ 179. Certifying changes in registers.

If, in cities, the board of inspectors shall meet on the second Saturday before the election for the purpose of revising and correcting the register of voters in pursuance of an order of the supreme court, a justice thereof or a county judge, as provided in section one hundred and fifty-three of this article, the inspectors shall certify forthwith to the officer with whom the copy of the register is filed the change or changes made upon such register in pursuance of such order. At any revision of registration for an election other than a general election, the quadruplicate register of voters for the last preceding general election shall be furnished to the inspectors of election by the officer or board having the custody thereof, and the inspectors shall certify to the officer or board in cities of the first class with whom the registers are filed the changes, additions or alterations made in such registers for such election.

Derivation: Election Law, § 35, pt. of subd. 2, as amended by L. 1897, ch. 379, § 9; L. 1899, ch. 630, § 10; L. 1901, ch. 95, § 10; L. 1905, ch. 643, § 8.

§ 180. Custody of registers after election.

At the close of the canvass of the votes of any election, or within twenty-four hours thereafter, the two copies of the register of electors used by the inspectors and the public copy thereof shall be filed with the board of elections of the county in which the election district is located and in the city of New York with the office located in the borough of Manhattan, and with the chief clerk of the branch office of the board of elections in each other borough of the city of New York. It shall be the duty of the officers with whom such registers of the election districts are filed, to forthwith file one copy of such register for each election district with the State superintendent of elections. Such register of electors shall be carefully preserved for use at any election which may be ordered or held in either of such counties or cities, respectively, prior to the next ensuing general election at which they may be required.

Derivation: Election Law, § 35, pt. of subd. 2, as amended by L. 1897, ch. 379, § 9; L. 1899, ch. 630, § 10; L. 1901, ch. 95, § 10; L. 1905, ch. 643, § 8.
Amended by L. 1911, ch. 649; L. 1915, ch. 678, in effect May 22, 1916.

§ 181. Certifying number of registered electors.

At the close of registration on the last day the board of inspectors shall upon blanks furnished by the secretary of State forthwith certify and file with or mail to the officer or board charged with the duty of furnishing ballots to such district and to the State superintendent of elections the total number of electors registered in such district. The inspectors of each district shall also furnish to the same officials in like manner at the close of each day of registration the total number of electors registered on such day in their respective districts. The chairman of the board of inspectors of election

The secretary of state shall purchase what is desirable for the best interests of the state, a sufficient number of blank books for registers of voters, with blank and brief instructions for registering the names on the forms respectively provided in sections one thousand four hundred and one hundred and fifty-five of this chapter of such books for each board of inspectors in such number of extra copies thereof as in his judgment may be necessary for each county or city to replace lost or before delivery to the inspectors. Such registers shall have the leaves thereof indexed with the letter beginning with the letter "A" for the first leaf, and at least twenty days prior to the first day of registration in each year, the secretary of state shall deliver a sufficient number of such registers, certificates and blank forms to the board of elections of each county, and to the board of elections of the city of New York located in the borough of Manhattan to the chief clerk of the branch office of the board of elections in each other borough within the city of New York, for the use of the board of inspectors within such counties and boroughs. The board of elections of each county, outside of the city of New York, shall deliver such books to the town clerk of each town, to the city clerk of each city in the county, by mail or otherwise, at least five days prior to the first day of registration, and the board of elections of the city of New York shall deliver such books to the town clerk of each town, to the city clerk of each city, and to the chief clerk of each borough, respectively, before the first day of registration, for the use of the board of inspectors in registering the names of voters on the first day of registration. On each day of registration the board of elections of each county, outside of the city of New York, shall deliver such books to the town clerk of each town, to the city clerk of each city in the county, by mail or otherwise, at least five days prior to the first day of registration, and the board of elections of the city of New York shall deliver such books to the town clerk of each town, to the city clerk of each city, and to the chief clerk of each borough, respectively, before the first day of registration, for the use of the board of inspectors in registering the names of voters on the first day of registration.

seven of this article. Such blanks shall be distributed in time and manner as above provided for the distribution for registers.

Derivation: Election Law, § 36, subd. 1, as amended by L. 1897, ch. 379, § 10; L. 1901, ch. 95, § 11; L. 1905, ch. 643, § 9.

Amended by L. 1916, ch. 537, in effect May 15, 1916.

Certificate of independent nomination of ward officers. — The provision of this section requiring one hundred electors to join in making a certificate for the independent nomination of ward officers in a city is not so unreasonable as to justify the court in declaring it unconstitutional. **Matter of Independent Certificate (Alderman of Cohoes) (1912), 78 Misc. 87.**

§ 182-a. Special instructions to voters to be prepared for the year nineteen hundred and fourteen.

The secretary of state shall prepare and cause to be printed and furnished to the various boards of elections, in time and manner as provided in section one hundred and eighty-two for other supplies, printed instructions to voters, in brief and concise form, explaining the difference between the form of ballot used at former general elections and the form of ballot provided for in section three hundred and thirty-one of this chapter as amended by chapter eight hundred and twenty-one of the laws of nineteen hundred and thirteen, and explaining the requirements of marking the latter ballot so that the voter may effectually vote for the candidates for all offices to be filled. The instructions provided for in this section shall only be prepared and supplied prior to the first day of registration in the year nineteen hundred and fourteen. The various boards of elections shall supply the election officers in each election district within the jurisdiction of any such board where personal registration is required, before the opening of registration on the first day of registration, with a sufficient number of copies of such printed instructions to supply each voter with one copy. The delivery of such instructions shall be made through town and city clerks and otherwise as provided in section one hundred and eighty-two for the delivery of other supplies.

Added by L. 1914, ch. 243, in effect Apr. 8, 1914.

§ 183. Delivery of previous registers and poll books to inspectors.

Each town clerk with whom the register of the last preceding general election in any election district, elsewhere than in a city or wholly within a village having five thousand inhabitants or more, shall have been filed, shall cause such register and one of the poll books to be delivered to the board of inspectors of such district at the opening of its first meeting for the registration for any election.

If a new election district shall have been formed in a town since such general election, the clerk of such town shall, before the first

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registration thereafter in such new election district shall cause such certified copy to be delivered to the inspectors of such new election district at the opening of registration. Such board, at such meeting shall register of voters all persons whose names are on the register of voters for such election district at the last preceding general election, except the names of persons who are required to personally appear for registration. If such new election district shall have been formed in a city or town at such election, the clerk or board with whom the register of voters for such last preceding general election shall have been deposited, at the meeting of the inspectors of election of such new election district, shall make a certified copy of the register of voters for such last preceding general election for such new election district and deliver the same to the inspectors of such new election district at the opening of registration for such election, place upon such copies the names of all persons upon such copies who are qualified to vote in such election district at the election for which such registration is held.

Election Law, § 36, subd. 2.

Any person who shall make, sign, file or cause to be filed, certify or attest any false application for registration as required by sections one hundred and fifty-eight and one hundred and fifty-nine of this chapter, or any person who shall alter, mutilate, destroy or remove any such application from the place of registration, shall be guilty of a felony and shall be punished upon conviction thereof by imprisonment in a state prison for not less than two years nor more than five years, unless otherwise provided by law.

Derivation: Election Law, § 34, pt. of subd. 6, as amended by L. 1899, ch. 630, § 8; L. 1901, ch. 544, § 1; also § 34, subd. 9; also § 35, pt. of subd. 2, as amended by L. 1897, ch. 379, § 9; L. 1899, ch. 630, § 10; L. 1901, ch. 95, § 10; L. 1908, ch. 643, § 8.

Amended by L. 1913, chs. 587 and 820, in effect Dec. 17, 1913.

ELECTION LAW.

ARTICLE 7.

BOARDS OF ELECTIONS.

Boards of elections established.

Appointment, term and qualifications of commissioners.

Organization of board, rules and reports.

Board of elections in the city of New York.

Recommendations for appointment of commissioners in the city of New York.

Filling vacancies in board.

Non-partisan character of board.

Appointment of employees.

Central office and branches.

Duty of police to aid board of elections.

Expenses of board of elections.

Disposition of registers and unused ballots.

Retention of primary records.

Final audit.

Final statement of canvass, tally sheets and poll books.

Transfer.

Transfer of records, devolution of powers.

Working hours, rules and regulations of board of elections.

Records to be preserved, records of transactions of the board of elections.

Boards of elections established.

There shall be a board of elections in every city of the State.

Any city which does, or shall contain within its boundaries

more than one county, to consist of four persons. There shall

be a board of elections in each of the other counties of the State.

In any county having a population of less than one hundred

the expenditure for clerk hire, including stenographer, each year, shall not exceed fifteen hundred dollars. In each county having a population of less than ninety thousand and containing within its boundaries at least three cities of the third class and in each county having a population of ninety thousand and less than one hundred and twenty thousand the salary of a commissioner shall not exceed fifteen hundred dollars, and the expenditure for clerk hire, including stenographer, each year, shall not exceed three thousand dollars each year. In each county having a population of one hundred and twenty thousand and less than five hundred thousand the salary of a commissioner shall not exceed three thousand dollars, and the expenditure for clerk hire, including stenographer each year, shall not exceed five thousand dollars. In each county having a population of five hundred thousand and less than a million the salary of a commissioner shall not exceed three thousand dollars. The population of the various counties of the state referred to in this section shall be fixed and determined according to the latest preceding federal census, or state enumeration. Not more than two of such commissioners, if the board of elections consist of four members, and not more than one of such commissioners if said board consist of two members, shall belong to the same political party or be of the same political opinion on state or national politics. The persons composing such boards of elections shall be designated "commissioners of elections." Each of the said boards of elections shall be and is hereby charged with the duty of executing the laws relating to all elections held within their respective cities or counties, except as otherwise provided by law.

Derivation: Election Law, § 11, subd. 2, ¶ a, as added by L. 1901, ch. 95, § 5.

Amended by L. 1911, chs. 649 and 740; L. 1912, ch. 406; * L. 1913, chs. 800 and 820, in effect Dec. 17, 1913.

The purpose of sections 190-196 of the Election Law is to provide for a bipartisan election board in New York city, and the mayor is given full authority to appoint the board. *Matter of Kane v. Gaynor* (1911), 144 App. Div. 196, aff'd 202 N. Y. 613, on opinion of Burr, J., below.

Salary of Clerk.—Under § 12, subd. 5 of the County Law, as amended by L. 1914, ch. 358, the board of supervisors has power to fix the salary of the chief clerk of the board of elections. *People ex rel. Simpson v. Snyder* (1916), 173 App. Div. 171, 158 N. Y. Supp. 937.

* **Reducing Number of Commissioners.**—L. 1912, ch. 406, section 4, in effect April 16, 1912, although not amending any section of the Election Law, provides as follows: "In any county in which the number of the commissioners constituting the board of elections is reduced by the provisions of this act,

ELECTION LAW.

two members of such board of opposite political faith will be appointed. Upon the adoption of a resolution to that effect, the retiring members shall cease and determine and the members thereafter constitute, until the expiration of their terms of such county."

Appointment, term and qualifications of commissioners of elections.

Commissioners of elections shall be appointed by the board of supervisors of the county in which such board of elections is established. In the city of New York by the board of aldermen of such city. The members of each county and the members of the board of elections of the city of New York shall appoint the commissioners for their respective counties and the city of New York. The appointment shall be evidenced by the supervisors of the county or the board of aldermen of the city of New York and the commissioners, executing a certificate substantially as follows: "I, the undersigned, comprising the supervisors of . . . county, (the members of the board of aldermen of the city of New York) do hereby, pursuant to the election law, appoint . . . , residing at . . . , as commissioner of elections for said county."

election, poll clerk or ballot clerk. Such commissioner shall not hold, while he is commissioner, any other office, except as above provided; nor shall he be a candidate, while he is commissioner, for any elective office which he would not be entitled to hold under the provisions of this section, nor after he has ceased, by resignation or otherwise, to be commissioner, if the election shall occur within fifty days therefrom, and any votes cast for any person for any such office who shall have been a commissioner of elections within fifty days of the election at which such votes were cast shall be void and shall not be counted, except that such commissioner may be a candidate for the office of supervisor or town clerk while he is commissioner, and at any time thereafter, subject to the ensuing provisions of this section. Any votes cast for a person for either of such offices who shall have been a commissioner of elections, and who shall have resigned from or otherwise ceased to hold the office of commissioner at least fifteen days before the election at which such votes were cast shall be valid and shall be counted.

A commissioner of elections may be removed from office by the governor for cause in the same manner as a sheriff. Any vacancy in the office of commissioner of elections shall be filled by the supervisors of such county or in the city of New York by the members of the board of aldermen within five days after the filing of the certificate provided for in section one hundred and ninety-five of this act, and the person appointed to fill such vacancy shall hold office during the remainder of the term of the commissioner in whose place he was appointed.

Derivation: Election Law, § 11, subd. 2, pt. of § b, as added by L. 1901, ch. 95, § 5.

Amended by L. 1911, ch. 649, and L. 1913, ch. 820, in effect Dec. 17, 1913.

Cross-reference.—As to appointment, qualifications, etc., of election officers in general, see Election Law, § 302.

Election commissioner; illegal appointment.—Where a person was certified by the county committee of his party for the office of election commissioner, but the board of supervisors disregarding the certificate appointed another person to the office, the person certified, not having title to the office, may not maintain an action as relator to oust the occupant. Until a person is legally appointed and the occupant refuses to surrender the office the Attorney-General in the exercise of his discretion should not bring an action to oust the occupant. *Rept. of Atty.-Gen. (1913), Vol. 2, p. 616.*

Vacancies.—Where the present residence or whereabouts of a commissioner of elections is unknown and he has for a long time been absent from the county for which he was appointed and he does not attempt to exercise any of the powers of his office, a vacancy exists which may be filled by the appointing power without recourse to any action at law to determine his status. *Rept. of Atty.-Gen. (1914), Vol. 2, p. 131.*

Organization of board; rules and reports.

At its first meeting the commissioners of elections shall elect one of their number as president and one as secretary. In case no election can be had the members shall elect one of their number as president and one as secretary. The president and secretary shall not be eligible for re-election. The board shall have power to adopt such rules and regulations for the control and conduct of the affairs of such employees as are not inconsistent with or in violation of the laws of the city of New York. The board shall keep a record of its proceedings and shall report the same to the secretary of state. The board of elections of the city of New York shall also make a report at the first meeting of the board of elections, in the month of January, of its affairs and proceedings during the preceding year. The board shall append to the report a statement of the number of voters enrolled in each election district. The board shall also append to the report as may be available relating to the expense of elections, enrollments and elections within its county. The board shall include a statement thereof in each report to the secretary of state together with such other information relating to the affairs of the board as the secretary of state may prescribe.

Election Law, § 11, subd. 2, pt. of § 11, as added by

L. 1911, ch. 649; L. 1917, ch. 702, in effect June 1, 1917.

Qualifications of commissioners of elections.

1911



§ 194. Recommendations for appointment of commissioners of elections.

Within ten days after this act takes effect and at least five days before the first day of January in each odd numbered year, the respective chairmen of the county committees within the counties of New York and Kings and the respective chairmen of the county committees of all the other counties in the state excepting the counties of Bronx, Queens and Richmond of each of the two political parties which at the general election last preceding the date of such certificate cast the highest and the next highest number of votes for governor, shall each respectively make and file or cause to be filed in the case of the counties of New York and Kings with the board of aldermen of the city of New York, and in the case of each of the other counties with the board of supervisors of such county a certificate in substantially the following form, each of which certificates shall certify the name of a person who is a resident and qualified voter in the case of the counties of New York and Kings of the city of New York, or in the case of the other counties a resident of such county, and who is recommended as a fit and proper person to be appointed a commissioner of elections: "I,, chairman of the county committee of the party, for the county of, do hereby, in accordance with the provisions of section one hundred and ninety-four of the election law, certify that in the opinion of a majority of the said committee, pursuant to resolution duly adopted, a resident and qualified elector of the borough of city of New York, or of the county of, is a fit and proper person to be appointed a commissioner of elections, and I do hereby recommend him for appointment to said office. In witness whereof, I have made and executed this certificate, this day of, 19..."

Each of such certificates shall be duly acknowledged by the person executing the same, before a notary public or other officer authorized to take acknowledgments to deeds for record in this state.

Derivation: Election Law, § 11, subd. 2, pt. of "d," as added by L. 1901, ch. 95, § 5.

Amended by L. 1911, ch. 649, and L. 1913, ch. 820, in effect Dec. 17, 1913.

Consolidators' note.—As in section 193, the obsolete provisions governing the making of nominations to the mayor for the original board are omitted, and the general provision retained is defined by reference to "each odd numbered year." The form of certificate making the nomination is also made a part of the general provision and its place in the section changed accordingly.

Application of section.—People ex rel. Woods v. Flynn (1913), 81 Misc. 279.

Effect of nominations. The mayor of the city of New York in appointing a commissioner of elections cannot be confined to a single person nominated under the provisions of this section. Matter of Kane (1911), 71 Misc. 163.

of the Legislature for nominations to the office of
 tions, which contemplates the nomination of a single
 thus destroys the power of selection of the ap
 contravention of section 2 of article X of the state c
 offices to be filled either by the electors or
 or board. Matter of Kane (1911), 71 Misc. 163.

only exercise by the Legislature of the power to d
 such appointment is a provision by which a singl
 nominated and the mayor's power of selection is, th
 mayor may appoint such commissioner without r
 on. Matter of Kane (1911), 71 Misc. 163.

of section 194 is to make provision for pointin
 reons who are eligible so that there may be no pr
 is-partisan plan of the statute. Matter of Kane v
 p. Div. 196, aff'd 202 N. Y. 615, on opinion of Bur

given to the mayor by section 193 to "appoint four
 bers," each of whom shall be a resident and qualifi
 city and not more than two of whom shall be of t
 on, is not curtailed in any way by this section p
 ective chairmen of the county committees of New Y
 s of each of the two principal political parties sh
 the mayor a certificate in a stated form certifying t
 recommended as a fit and proper person to be a

Matter of Kane v. Gaynor (1911), 144 App. Div.
 on opinion of Burr, J., below.

vacancies in board.

as a vacancy arises in the office of commissioner
 death, resignation, removal or inability to serve, th
 tly committee of the political party to which t
 the ex. B. C. v. B. C. and if such vacancy

kept by the board with which the same is filed in some safe and secure place in the office of the clerk of said board, and shall be a public record open at all reasonable hours to the inspection of any person who may desire to see the same. It being the intention of this article, and said intention is hereby declared, to secure in the appointment of the members of the board of elections established by this article, and the employees thereof, equal representation of the two political parties which at the general election next preceding such appointment cast the highest and the next highest number of votes for governor, and of which the committees and chairmen of committees have been duly elected as such under and in pursuance of the provisions of article three of this chapter relating to primary elections.

Derivation: Election Law, § 11, subd. 2, par. e. as added by L. 1901, ch. 85, § 5.

Amended by L. 1911, ch. 649, and L. 1913, ch. 820, in effect Dec. 17, 1913.

§ 197. Appointment of employees.

Every board of elections shall have power to fix the number, salaries, duties and rank of its chief clerks, clerks, assistant clerks and stenographers and to appoint and remove at pleasure and to fix the salaries of all employees of said board, but not in excess of the amounts specified in section one hundred and ninety; except that in a county having a population of less than ninety thousand the board may have one clerk only and his salary shall not exceed nine hundred dollars per annum, nor shall the aggregate expenditure for such clerk hire and for stenographer exceed the amount specified in section one hundred and ninety.

Derivation: Election Law, § 11, subd. 2, pt. of ¶ b, as added by L. 1901, ch. 85, § 5.

Amended by L. 1911, ch. 649; L. 1912, ch. 406; L. 1913, chs. 800 and 820, in effect Dec. 17, 1913.

Salary of clerk.—The board of supervisors, under § 12, subd. 5, of the County Law, as amended by L. 1914, ch. 358, has power to fix the salary of the clerk notwithstanding the provisions of this section. *People ex rel. Simpson v. Snyder* (1916), 173 App. Div. 171, 158 N. Y. Supp. 937.

§ 198. General office and branches.

The board of elections in the city of New York shall have power to provide and maintain an office for such board in the borough of Manhattan which shall be the headquarters of said board, and to furnish the same with necessary furniture and office fixtures, and shall also provide, maintain and furnish an office in each other borough of the city of New York and shall place the same in the charge of a competent person. Said board of elections shall have full and complete control of the said branch offices of the board of elections and of all the offices, employees, affairs and administration of said branch offices.

In each county the board of supervisors or other body or official charged with the duty of providing public offices shall provide the said board of elections for said county with proper and suitable offices. The expenses for said offices shall be a part of the expenses of said board of elections.

Derivation: Election Law, § 11, subd. 2, pt. of ¶ i, as added by L. 1901, ch. 85, § 5.

Amended by L. 1911, ch. 649. In effect July 13, 1911.

Consolidators' note.—The provisions covering the temporary location of offices of the new board, and the turning over of the records of the old police bureau abolished by the act, are omitted, as obsolete. The remainder of the paragraph has been made section 199.

of police to aid board of elections.

The duty of the commissioner of police and the chief of the police force, whenever called upon by the board of elections, shall be to render to said board all practicable assistance in the execution of this chapter, including the use of the police force. The commissioner of police shall detail such members of the police force as may be necessary for the faithful performance by said board of its duties. All copies of police reports to communicate under section one hundred and fifty-two shall be forthwith transmitted by the precinct board of elections. All statements of canvassers, officers in command of a precinct under section seventy-two of this chapter shall be forthwith transmitted by the precinct commander to the board of elections, and shall have the same force and effect as if prescribed by the board of elections.

Election Law, § 11, subd. 2, pt. of § 1, as added by 1917 Laws, chapter 100, § 1.

Expenses of board of elections.

It shall be the duty of the board of elections to pay the expenses of the board of elections of New York, including the salaries of the clerk, deputy clerk, clerks, assistant clerks, and other employees of the board.

officials, who in spreading upon the assessment-rolls the taxes to be levied upon the taxable property in the city, or any of the said cities, and in the rest of the county, shall include in the amount so spread the amounts certified by the said board of elections to be borne by the said city or cities, respectively, and in the amount spread upon the assessment-rolls of the taxable property in the several towns or other political subdivisions of the rest of the county the amount so certified by said board of elections to be borne by the said towns or political subdivisions respectively.

Derivation: Election Law, § 11, subd. 2, pt. of ¶ j, as added by L. 1901, ch. 95, § 5.

Amended by L. 1911, ch. 649. In effect July 13, 1911.

Consolidators' note.—The provisions directing the city comptroller to turn over to the new board the appropriation of the year 1901, and for further financing the new board in that year are omitted, being obsolete.

§ 201. Disposition of registers and unused ballots.

The board of elections of the city of New York is hereby authorized and directed, not less than two years after each election, to sell or destroy all registers of voters in the possession of such board; provided, that one copy of such register of voters for each election district shall be excepted and preserved by such board from such sale or destruction. The board of elections is also authorized to sell to the highest bidder the unused ballots furnished for the last preceding election, but such unused ballots shall not be sold until at least six months after the election for which they were provided. All moneys realized by sales under this section shall be paid over to the proper fiscal officer of the city of New York to the credit of the account of the board of elections.

DERIVATION: Election Law, § 11, subd. 2, ¶ k, as added by L. 1901, ch. 95, § 5.

§ 202. Custodian of primary records.

The board of elections shall be the custodian of primary records for each political subdivision for which such board is appointed. The board of elections for New York city shall also be the custodian of primary records for the several counties in said city.

Added by L. 1911, ch. 649. In effect July 13, 1911.

§ 203. Official seal.

Each board of elections is hereby authorized to adopt an official seal which shall be provided at the expense of the city or county for which said board of elections is appointed, and shall cause a description of said seal with impressions from it to be filed in

of the county clerk of said county and of the
Such description of the official seal of the board
New York city shall be filed in the office of the
each county in said city.

by L. 1911, ch. 649. In effect July 13, 1911.

Filing statement of canvass, tally sheets and po

statements of canvass, tally sheets and poll-books,
ballots, and any and all other packages and d
by law to be filed by the inspectors, except certifi
ments of canvass, ballot lists and tally sheets w
by law to be filed with the county clerk shall be f
of elections of said county or, in the city of N
board of elections of said city. In the city of N
statements, documents and packages shall be fil
Office in each borough.

by L. 1911, ch. 649. In effect July 13, 1911.

Notices.

ices of elections to which this chapter applies v
by law to be published, advertised or posted
r any political subdivision thereof or therein.
advertised or posted by the custodian of primar

continue in the care, custody and control of the board of elections; the said board of elections in any such county shall continue be charged with the duty of performing each, every and all of the duties of the county clerk or commissioner of elections of said county, relating to elections heretofore devolved upon such board under the former provisions of this section, except as otherwise provided in this chapter. In the city of New York the board of elections shall continue to exercise the same powers and duties as exercised by it, excepting as otherwise provided in this chapter. The books, documents, papers, records and election appliances held in use by any commissioner or commissioners of election, in any county whose powers and duties have been heretofore terminated shall continue in the custody of the board of elections for such county.

Added by L. 1911, ch. 649; and amended by L. 1916, ch. 537, in effect May 916.

207. Office hours, rules and regulations of board of elections.

The offices of each board of elections shall be public and open during every business day of the year. The board of elections in each county shall designate the hours when said offices shall open and close. Each board of elections may adopt its own rules and regulations for the transaction of its business.

Added by L. 1911, ch. 649, in effect July 13, 1911.

208. All records to be public; records of transactions of the board of elections.

All the records in the office of the board of elections shall be public and open for inspection by any citizen of the State of New York during the hours when the said office shall be open, and the said board of elections shall provide ample and sufficient facilities for keeping said records and making copies of the same.

Each board of elections shall keep a record of its proceedings, which shall be public and transcribed in a book or books within twenty-four hours after the adjournment of said board. Minutes of all meetings of the board of elections shall show how each commissioner of elections voted upon any resolution or motion proposed at said meeting of the board.

Added by L. 1911, ch. 649, in effect July 13, 1911.

ELECTION LAW.

Article not applicable to Oneida and Broome
powers and duties of county clerks in such
defined.

This section takes effect the foregoing provisio
shall not apply to the counties of Oneida and Broome
section one hundred and ninety-nine. For the purpose of
such section, the county clerk in each of such counties shall be
deemed a board of elections. In each of such counties, in addition to
otherwise provided in this section, the county clerk shall perform
the powers and duties of a board of elections. All references to
the powers and duties of a county clerk, prescribed by this chapter
shall be deemed to be references to such board shall be deemed to
be references to such board. With respect to any such county, the county clerk
shall have in his possession, custody and control all election documents, papers, records and election apparatus held or used by or under the control of the county clerk of the county of Oneida or county of Broome, and all such documents, papers, records and election apparatus shall, when this section shall take effect, be transferred to the care, custody and control of the county clerk of such counties. Each such county clerk shall make and promulgate rules and regulations, not inconsistent with the provisions of this chapter, for conducting the business of his office.

highest number of votes for governor and of additional assistants, whenever such board of either county, respectively, shall determine that such deputies or assistants are necessary for the proper performance of the additional duties devolved upon such clerk by this section; but the aggregate compensation of such additional assistant appointed on account of such additional powers and duties in the county of Broome shall not exceed one thousand dollars annually, and of such deputies and assistants in the county of Oneida shall not exceed three thousand two hundred dollars annually, exclusive of necessary emergency employees.

Added by L. 1916, ch. 454, in effect July 1, 1916.

ELECTION LAW.

ARTICLE 7-A.

COMMISSIONER OF ELECTIONS IN THE COUNTY OF MO

- 0 Commissioner of elections for Monroe county.
1. Appointment, qualifications and removal of commissioner.
2. Appointment, removal and examination of inspectors
poll clerks and ballot clerks.
3. Office for commissioner.
4. Custody of records.
5. Employees.
6. Notices.
7. Filing papers; general powers and duties of commissioner.
8. Purchase of supplies, including voting machines; expenses
commissioner
9. Apportionment of expenses.
0. Publication of notices.
1. Polling places, election districts, et cetera.
2. Voting machines.
3. Construction of article.

commissioner of elections for Monroe county.

See of commissioner of elections in the county of
ated, and all the rights, powers, authority, d

211. Appointment, qualifications and removal of commissioner.

Within five days after this article takes effect the county judge, special county judge and the surrogate of Monroe county, or a majority of them, shall appoint a commissioner of elections who must be a resident voter of such county and shall file in the office of the clerk of such county a certificate of the appointment. Each commissioner of elections shall take the constitutional oath of office and file the same in the county clerk's office and shall hold office for a term of four years; his successor to be appointed in like manner. Such term of office, except as otherwise provided in this section, shall begin on the first day of May in every fourth year, beginning with the year nineteen hundred and twenty. The term of the commissioner first appointed hereunder shall begin on the day the appointment is made and expire on May first, nineteen hundred and twenty. In case of a vacancy in the office of commissioner of elections, such county judge, special county judge and surrogate, or a majority of them, shall appoint a resident voter of Monroe county to fill such vacancy and shall file a certificate of such appointment in the office of the clerk of Monroe county. The person so appointed shall take the constitutional oath of office and serve the remainder of the term. The commissioner of elections appointed pursuant to this article shall be subject to removal by the governor in like manner as sheriffs of counties. Upon the appointment and qualification, pursuant to this section, of the first commissioner for such county, the board of elections therein shall be deemed abolished; and the terms of office of its members shall then expire. The provisions of article seven of this chapter shall not thereafter apply to the county of Monroe except section one hundred and ninety-nine; and the commissioner provided for herein shall be deemed a board of elections for the purpose of applying such section.

Added by L. 1916, ch. 7, in effect Feb. 21, 1916.

§ 212. Appointment, removal and examination of inspectors of election, poll clerks and ballot clerks.

Inspectors of election, poll clerks and ballot clerks in and for the various election districts in the county of Monroe shall be appointed as follows: The chairmen of the county committees of the two political parties which at the last preceding general election

A governor cast the highest number of votes for governor shall file with the commissioner of elections, on or before the first day of April of each year, a list of persons who are desired to serve as inspectors of election, poll clerks and ballot clerks. The commissioner of elections shall thereafter examine each person whose name appears on such lists as to their qualifications for such offices. Such commissioners shall give each person whose name appears on such lists not less than three days' notice of such examination.¹ Such notice must be either written or printed and state the date, time and place such examination is to be held. Such notice must be sent either by mail or special messenger. Every person receiving the notice shall appear before such commissioner of elections at the place fixed for such examination at the time specified in the notice, and the said commissioner of elections shall examine each person as to his qualifications for the office of inspector of election, poll clerk or ballot clerk, as the case may be. Such examination may be either written or oral or both, and if a person examined is found by the commissioner to be qualified for such office, in the judgment of the commissioner a fit and proper person for such office, the commissioner or some person designated by him shall administer the constitutional oath of office and issue a certificate of appointment and he shall serve until he

filed by a party, and if within three days after notice in writing by the commissioner of elections to the chairman of the county committee of such party, an additional list is not filed containing the name or names of one or more qualified persons, the commissioner of elections may fill such office by the appointment of a qualified person, a member of the party in default. The commissioner of elections shall from time to time, as he may deem necessary, hold a school for the instruction of inspectors of election and poll clerks. Such school shall not be held at any hour earlier than seven o'clock in the evening, and notice shall be given by the commissioner to each inspector of election and poll clerk stating the time and place such school will be held. The notice shall be in writing and either written or printed. If any inspector of election or poll clerk shall fail to attend such school after receiving notice thereof, the commissioner may remove him from office and fill the vacancy in the manner provided for in this article. Each election officer shall be paid one dollar for the time spent in attending a school of instruction, and the election officers of the towns in Monroe county, if such school be held at any place outside the town in which they respectively reside, shall be paid in addition the car fare going and returning from the school. The money paid an election officer for attending a school of instruction shall be paid at the same time and in the same manner as the pay for other services. The commissioner of elections shall have the power on any day of election, registration or primary election to remove from office forthwith any inspector of election, poll clerk or ballot clerk for intoxication or failure to perform his duty in a satisfactory manner and to make a temporary appointment to fill the vacancy caused by such removal.

Added by L. 1916, ch. 7, in effect Feb. 21, 1916.

3. Office for commissioner.

It shall be the duty of the board of supervisors of Monroe county to provide an office for such commissioner of elections suitable for the preservation of the records of said office and for the doing of the work devolved upon such commissioner under and by reason of this article and the necessary furniture thereof. The expense of building and furnishing such office shall be a county charge and shall be audited and paid as other county expenses are paid.

Added by L. 1916, ch. 7, in effect Feb. 21, 1916.

ELECTION LAW.

Custody of records.

Books, documents, papers, records and election appliances held or used by or under the control of officers of Monroe county or of any political subdivision therein and relating to or used in the conduct of elections or official primaries, including voting machines owned by any political subdivision of Monroe, upon request of the commissioner of elections be turned over, custody and control of such commissioner. by L. 1916, ch. 7, in effect Feb. 21, 1916.

Employees.

The commissioner of elections may appoint such employees as the board of supervisors of Monroe county shall by law from time to time authorize, and such employees shall receive salaries and compensation as such board shall by law determine. Each employee shall perform such duties as the commissioner of elections shall prescribe and shall be subject to the pleasure of such commissioner. The salary of the commissioner of elections of Monroe county shall be three thousand dollars per annum. Such salaries and compensation shall be paid in the same manner as the salaries of the county officers. by L. 1916, ch. 7, in effect Feb. 21, 1916.

tions of nominations for office, all certificates of nomination to fill vacancies caused by such declinations or by death, all designations, all declinations of designations, all certificates of designations to fill vacancies caused by such declinations, all statements of candidates' expenses, expenses of election or nomination, and all rules and regulations of political parties otherwise required by law to be filed with any officer of Monroe county or any political subdivision thereof or therein, shall be filed in the office of the commissioner of elections hereby established, and such commissioner shall be the custodian of primary records for Monroe county and secretary of the county board of canvassers. The office of the commissioner shall be public and open on every business day of the year, during such reasonable hours as the commissioner shall designate. The commissioner may adopt rules and regulations for the conduct of his office, not inconsistent with this chapter. The official papers, records and documents of his office shall be public and open to inspection by any citizen of the state during office hours. Except as otherwise provided in this article, such commissioner shall have the powers and duties of a board of elections prescribed by this chapter or other statute and references to such board shall be deemed to mean and include such commissioner.

Added by L. 1916, ch. 7, in effect Feb. 21, 1916.

§ 218. Purchase of supplies, including voting machines; expenses of commissioner.

When the common council of any city, the town board of any town or the board of trustees of any village in the county of Monroe shall have adopted voting machines, the commissioner of elections shall direct the purchase of the number of machines authorized by such local authorities, and may thereafter, when authorized by such local authorities, direct the purchase of new or additional machines for such city, town or village. The commissioner may direct the purchase of any kind of voting machines approved by the state board of voting machine commissioners or the use of which has been specifically adopted by law. All supplies or election appliances to be used or furnished by the commissioner of elections for election purposes shall be purchased by the purchasing agent of Monroe county as other county supplies are purchased. The commissioner is hereby authorized to

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necessary repairs and alterations to be made and help as may be necessary in making such repairs, setting up and caring for all election material. All expenses for supplies, advertising, postage of election notices and printing lists of results and other expenses arising from the conduct of an election in any county or in any political subdivision thereof or under the direction of the commissioner of elections shall hereafter be a charge against the county or political subdivision thereof or therein, as specified in this act, and shall be certified by the commissioner of elections and shall be a charge against such county; provided that any city, town or village may, upon request of the commissioner of elections, assume the payment of the cost of purchasing and printing election material and shall have the power to issue bonds, certificates or other obligations which shall be a charge on the property of such city, town or village, payable at such time or times as such authority may determine, issued with or without interest and not in excess of par.

1916, ch. 7, in effect Feb. 21, 1916.

Apportionment of expenses.

The commissioner of elections shall, on or before the first

§ 220. Publication of notices.

All publications, advertising or posting of election notices required by law relating to general and special elections or official primaries to which this article applies and all notices of such elections or primaries as are required by law to be published, advertised or posted shall be published, advertised or posted by the commissioner of elections.

Added by L. 1916, ch. 7, in effect Feb. 21, 1916.

§ 221. Polling places, election districts, et cetera.

It shall be the duty of the commissioner of elections at least thirty days before each primary day to fix the polling places for each primary district in Monroe county and on or before the first Tuesday in September in each year to fix the polling places for registration and election in each election district in Monroe county. It shall be the duty of the commissioner to create, alter or divide the various political subdivisions of Monroe county into election districts as provided for in sections two hundred and ninety-six and four hundred and nineteen of this chapter. Whenever the commissioner shall have created, altered or divided the election districts in any political subdivision of Monroe county he shall execute a certificate giving the boundaries of the new districts and file it in his office and make and file a copy thereof in the office of the city or town clerk, as the case may be, and also publish a description of such boundaries once in the paper designated to publish election notices.

Added by L. 1916, ch. 7, in effect Feb. 21, 1916.

§ 222. Voting machines.

It shall be the duty of the commissioner of elections to cause the proper ballot labels to be placed on voting machines, and to cause the machines to be placed in proper order for voting and to examine all voting machines before they are sent out to the different polling places, and see that all the registering counters are set at zero (000), and lock all voting machines so that the counting machinery cannot be operated, and seal each one with a numbered metal seal. The commissioner of elections may appoint a custodian of voting machines who shall, under the direction of the commissioner of elections, have charge of and represent the commissioner of elections during the preparation of the voting machines and serve at the pleasure of the commissioner, but not to exceed forty

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one election. Before preparing a voting machine, written notice shall be mailed to the chairmen of the two political parties which p...ber of votes at the last preceding election of...the time and place where the machines will...which time and place one representative of each...ties, certified by the respective chairmen of th...of such parties, shall be entitled to be present...achines are properly prepared and placed i...use at election. The custodian of voting...ty representatives shall take the constitutional...all be paid five dollars for each day so employe...in the same manner as the salaries of count...shall be the duty of such representatives to b...ation of voting machines for election and to...are properly prepared and that all the re...set at zero (000). When a machine has been...t shall be the duty of such representatives to...writing, which shall be filed in the office of...elections, stating the number of the machine...the counters are set at zero (000), the num...protective counter, if one is provided, and th...ed with which the machine is sealed. Su

ARTICLE 7-B.

COMMISSIONER OF ELECTIONS IN THE COUNTY OF NIAGARA.

Section 225. Commissioner of elections for Niagara county.

226. Appointment, qualifications and removal of commissioner.

227. Appointment, removal and examination of inspectors of election, poll clerks and ballot clerks.

228. Office for commissioner.

229. Custody of records.

230. Employees.

231. Notices

232. Filing papers; general powers and duties of commissioner.

233. Purchase of supplies, including voting machines; expenses of commissioner.

234. Apportionment of expenses.

235. Publication of notices.

236. Polling places, election districts, et cetera.

237. Voting machines.

238. Construction of article.

§ 225. Commissioner of elections for Niagara county.

The office of commissioner of elections in the county of Niagara is hereby created, and all the rights, powers, authority, duties and obligations immediately heretofore by law vested in and imposed upon any officer or officers of the county of Niagara or any political subdivision thereof or therein, excepting the appointment, duties and obligations of inspectors of election, poll clerks and ballot clerks, who shall be appointed as hereinafter provided and serve as provided by law with respect to general or special elections and official primaries in the county of Niagara or in any political subdivision thereof or therein, except elections held at a time other than the time of the general election, or of village and school district officers, and special elections for town, village and school district purposes held at such other time, shall, by force of and as an effect of this article, be transferred to and be continued in the commissioner of elections in the county of Niagara hereby created from and after the time of appointment and qualification of the first commissioner hereunder.

Added by L. 1917, ch. 202, in effect Apr. 17, 1917.

§ 226. Appointment, qualifications and removal of commissioner.

Within five days after this article takes effect the county judge, county clerk and the district attorney of Niagara county, or a majority of them, shall appoint a commissioner of elections who must be a resident voter of such county and shall file in the office of the clerk of such county a certificate of the appointment. Such commissioner of elections shall take the constitutional oath of office and file the same in the county clerk's office and shall hold

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term of five years; his successor to be appointed such term of office, except as otherwise provided shall begin on the first day of May in even years beginning with the year nineteen hundred and twenty. The commissioner first appointed hereunder shall the appointment is made and expire on May first, nineteen hundred and twenty-two. In case of a vacancy in the office of elections, such county judge, county clerk, county attorney, or a majority of them, shall appoint one or more persons in Niagara county to fill such vacancy and shall file such appointment in the office of the clerk of the county. The person so appointed shall take the constitutional oath and shall serve the remainder of the term. The commissioner first appointed pursuant to this article shall be subject to removal by the governor in like manner as sheriffs of counties. The provisions of this article relating to appointment and qualification, pursuant to this article, shall be deemed abolished; and the terms of office of the commissioner shall then expire. The provisions of article 11 of the constitution shall not thereafter apply to the county of Niagara until the year one hundred and ninety-nine; and the commissioner of elections shall be deemed a board of elections for the purpose of applying such section.

1917, ch. 202, in effect Apr. 17, 1917.

taining not more than ten names for each office. Additional supplemental lists for any election district may be filed at any time before the appointments for such district are made, or when a vacancy shall exist for any cause, and all appointments shall be made from the original list if those named therein are found disqualified as herein provided; if not so qualified, then from a supplemental list so filed. If no list is filed by a party, and if within three days after notice in writing by the commissioner to the chairman of the county committee of such party no list is filed, the commissioner of elections may appoint qualified persons, members of the party in default, to act as election officers, and the enrollment of such persons shall be sufficient evidence of the party affiliation of such person. If a qualified person cannot be obtained for any election office from the list or lists filed by a party, and if within three days after notice in writing by the commissioner of elections to the chairman of the county committee of such party an additional list is not filed containing the name or names of one or more qualified persons, the commissioner of elections may fill such office by the appointment of a qualified person, a member of the party in default. The commissioner of elections may from time to time, as he may deem necessary, hold a school for the instruction of inspectors of election and poll clerks. Such school shall not be held at any hour earlier than seven o'clock in the evening, and notice shall be given by the commissioner to each inspector of election and poll clerk stating the time and place such school will be held. The notice shall be by mail and either written or printed. If any inspector of election or poll clerk shall fail to attend such school after receiving notice thereof, the commissioner may remove him from office and fill the vacancy in the manner provided for in this article. Each election officer shall be paid one dollar for the time spent in attending a school of instruction, and the election officers of the towns of Niagara county, if such school be held at any place outside the town in which they respectively reside, shall be paid in addition the car fare going and returning from the school. The money due an election officer for attending a school of instruction shall be paid at the same time and in the same manner as the pay for his other services. The commissioner of elections shall have the power on any day of election, registration or primary election to remove from office forthwith any inspector of election, poll clerk or ballot clerk for intoxication or failure to perform his duty in a satisfactory manner and to make a temporary appointment to fill the vacancy caused by such removal.

Added by L. 1917, ch. 202, in effect Apr. 17, 1917.

for commissioner.

The duty of the board of supervisors of Niagara county to provide an office for such commissioner of elections suitable for the storage of the records of said office and for the discharge of the duties thereof, and the necessary furniture thereof. The cost of such office and furnishing such office shall be a county charge and paid as other county expenses are paid. 1917, ch. 202, in effect Apr. 17, 1917.

custody of records.

All documents, papers, records and election apparatus held or used by or under the control of any person or corporation in Niagara county or of any political subdivision thereof relating to or used in the conduct of general elections or official primaries, including voting machines, shall, at the request of the commissioner of elections, be transferred to the custody and control of such commissioner. 1917, ch. 202, in effect Apr. 17, 1917.

employees.

The commissioner of elections is hereby authorized to appoint a deputy commissioner of elections, who shall perform the duties as the commissioner of elections shall

§ 231. Notices.

All notices which are now or which hereafter may be required by law to be given by the secretary of state or any other officer to any officer of Niagara county or of any political subdivision thereof or therein relating to the holding of any election or official primary, and stating the officers to be elected or nominated or party positions to be filled thereat, or the questions to be voted upon by the people from and after the appointment and qualification of the first commissioner hereunder, shall be communicated by the secretary of state or other officer to the commissioner of elections of Niagara county.

Added by L. 1917, ch. 202, in effect Apr. 17, 1917.

§ 232. Filing papers; general powers and duties of commissioner.

All certificates of nomination for office to be voted for by the electors of Niagara county or any political subdivision thereof or therein at any election to which this article applies, all declinations of nominations for office, all certificates of nomination to fill vacancies caused by such declinations or by death, all designations, all declinations of designations, all certificates of designations to fill vacancies caused by such declinations, all statements of candidates' expenses, expenses of election or nomination, and all rules and regulations of political parties otherwise required by law to be filed with any officer of Niagara county or any political subdivision thereof or therein, shall be filed in the office of the commissioner of elections hereby established, and such commissioner shall be the custodian of primary records for Niagara county and secretary of the county board of canvassers. The office of the commissioner shall be public and open on every business day of the year, during such reasonable hours as the commissioner shall designate. The commissioner may adopt rules and regulations for the conduct of his office not inconsistent with this chapter. The official papers, records and documents of his office shall be public and open to inspection by any citizen of the state during office hours. Except as otherwise provided in this article, such commissioner shall have the powers and duties of a board of elections prescribed by this chapter or other statute and references to such board shall be deemed to mean and include such commissioner.

Added by L. 1917, ch. 202, in effect Apr. 17, 1917.

§ 233. Purchase of supplies, including voting machines; expenses of commissioner.

When the common council of any city, the town board of any town or the board of trustees of any village in the county of Ni-

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For adopted voting machines, the commissioner may direct the purchase of the number of machines by local authorities, and may thereafter, when directed by local authorities, direct the purchase of machines for such city, town or village. The commissioner may direct the purchase of any kind of voting machine adopted by the state board of voting machine commissioners, which has been specifically adopted by law. All supplies to be used or furnished by the commissioner for election purposes shall be purchased by such commissioner. The commissioner is hereby authorized to contract for and alterations to be made and employ such persons as may be necessary in making such repairs and in moving, storing and for all election materials and appliances. All expenses for advertising, posting and circulation of election notices, printing lists of registered voters and other expenses for the conduct of elections in Niagara county or for the provision thereof or therein, incurred by or under the direction of the commissioner of elections, except the compensation of election, poll clerks and ballot clerks, shall be paid out of the county or political subdivision specified in this chapter, and shall be certified by the commissioner of elections and audited and paid as are other claims against the county; provided, however, that any city, town or village of the local authorities may also

county at large and the political subdivision thereof or therein the amount so certified by the commissioner to be borne by the county at large or the political subdivision respectively.

Added by L. 1917, ch. 202, in effect Apr. 17, 1917.

§ 235. Publication of notices.

All publications, advertising or posting of election notices required by law relating to general and special elections or official primaries to which this article applies and all notices of such elections or primaries as are required by law to be published, advertised or posted shall be published, advertised or posted by the commissioner of elections.

Added by L. 1917, ch. 202, in effect Apr. 17, 1917.

§ 236. Polling places, election districts, et cetera.

It shall be the duty of the commissioner of elections at least thirty days before each primary day to fix the polling places for each primary district in Niagara county and on or before the first Tuesday in September in each year to fix the polling places for registration and election in each election district in Niagara county. It shall be the duty of the commissioner to create, alter or divide the various political subdivisions of Niagara county into election districts as provided for in sections two hundred and ninety-six and four hundred and nineteen of this chapter. Whenever the commissioner shall have created, altered or divided the election districts in any political subdivision of Niagara county he shall execute a certificate giving the boundaries of the new districts and file it in his office and make and file a copy thereof in the office of the city or town clerk, as the case may be, and also publish a description of such boundaries once in the paper designated to publish election notices.

Added by L. 1917, ch. 202, in effect Apr. 17, 1917.

§ 237. Voting machines.

It shall be the duty of the commissioner of elections to cause the proper ballot labels to be placed on voting machines, and to cause the machines to be placed in proper order for voting and to examine all voting machines before they are sent out to the different polling places, and see that all the registering counters are set at zero (000), and lock all voting machines so that the counting machinery cannot be operated, and seal each one with a numbered metal seal. The commissioner of elections may appoint a custodian of voting machines who shall, under the direction of the commissioner of elections, have charge of and represent the commissioner

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ing the preparation of the voting machines under the direction of the commissioner, but not to exceed the cost of the election. Before preparing a voting machine, written notice shall be mailed to the chairman of each of the two political parties which polled the largest number of votes at the last preceding election of a similar kind, the time and place where the machines will be prepared, and at such time and place one representative of each of the parties, certified by the respective chairmen of such parties, shall be entitled to be present to see that the machines are properly prepared and placed in readiness for use at election. The custodian of the machines shall take the count of the machines and shall be paid five dollars for each day he shall be paid in the same manner as the election officers are paid. It shall be the duty of the custodian to be present at the preparation of voting machines and to see that the machines are properly prepared and that all the registering counters are set at zero (0). When the machine has been prepared for election it shall be the duty of the representatives to make a certificate in writing, to be filed in the office of the commissioner of elections, stating the number of the machine, whether or not all of the counters are set at zero (000), the number registered on the machine as provided, and the number of the

ARTICLE 8.

TIMES, PLACES, NOTICES, OFFICERS AND EXPENSES OF ELECTIONS.

Section 290. Date of general election.

291. Time of opening and closing polls.

292. Filling vacancies in elective offices.

293. Notice of elections.

294. Notice of submission of proposed constitutional amendments or other propositions or questions.

295. Publication of concurrent resolutions, proposing constitutional amendments and other propositions.

296. Creation, division and alteration of election districts.

297. Abolition, consolidation or changing of election districts in towns.

298. Maps and certificates of boundaries of election districts.

299. Designation of places for registry and voting.

300. Equipment of polling places.

300a. Display of American flag.

301. Publication of list of registration and polling places.

302. Election officers; designation, number and qualifications.

303. Appointment of election officers in cities.

304. Authentication of party lists.

305. Examination as to qualifications.

306. Party election in the city of New York.

307. Oath of office; certificate of appointment.

308. Removals; vacancies; transfers.

309. Certificates of service; exemption from jury duty; payment.

310. Special penalties.

311. Appointment of inspectors of election in towns.

312. Appointment of poll clerks and ballot clerks in towns.

313. Supplying vacancies and absences.

314. Organization of boards of inspectors.

315. Preservation of order by inspectors.

316. Ballot boxes.

317. Voting booths and guard-rails.

318. Apportionment of election expenses.

319. Fees of election officers and others.

320. Delivery of election laws to clerks, boards and election officers.

§ 290. Date of general election.

A general election shall be held annually on the Tuesday next succeeding the first Monday in November.

Derivation: Election Law, § 2.

Cross-References. — City elections, when to be held. See N. Y. Const., art. 12, § 3 (part 2, *post*). General election day a public holiday. General Construction Law, § 24 (part 11, *post*). Time of holding town meetings. See part 8, *post*. Time of holding village elections. See part 9, *post*.

Sale of liquor on election days. — "It shall not be lawful for any person, whether having paid such tax or not, to sell, offer or expose for sale, or give away any liquor:

"a. On any day of a general or special election, or city election, or town meeting, or village election, within one-quarter of a mile of any voting place, while the polls for such election or town meeting shall be open." Pt. § 30, Liquor Tax Law. See § 2.

No parade or drill of national guard on election day. — "No parade or drill of the active militia shall be ordered on any day during which an election shall be held, except in case of riot, invasion or insurrection, or imminent danger thereof." Pt. § 111, Military Law.

No tolls to be charged voters on election days. — "No tolls shall be charged or collected at any gate from any person going to and from a public

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school, town meeting or election, at which he is a voter.
" Pt. 4 110 Transportation Corporation Law
red as Sunday for such purposes as the presenting
le of exchange bank checks and promissory notes
Law, § 145
ity clerks' offices not to be open on election day.

in foreclosure of mortgage by advertisement not to be
Dodge Civ. Pro., § 2323
election day the Election Law having repealed Laws
prohibited such sitting
rice of legal process not prohibited on election day.
L. (1900, 66 Hun 423, 10 N. Y. Supp. 12

ming and closing polls
by general election and unless otherwise provided by
tion shall be opened at six o'clock in the forenoon, and
t in the afternoon. There shall be no adjournment of
e polls are closed. Electors entitled to vote who are
2 or before five o'clock in the afternoon shall be able

ction Law, § 3, as amended by L. 1898, ch. 333, § 3;

811, ch. 649, and L. 1911, ch. 820, in effect Dec. 17, 1900
note. The said law revised and the old section shall
els of the law revised and the old section shall
d and the law revised and the old section shall
in section 3 of the Law of Tax Law of 1920 ch. 1
act, as amended by L. 1900, ch. 333, § 3, and
see. The section of law, meeting Town Law § 51 (pa
obling village meeting. Village Law § 28 (part 9, pa
al laws as to the opening of elections cannot be made
const., art. 3, § 18, subd. 9.

§ 292. Filling vacancies in elective offices.

A vacancy occurring before October fifteenth of any year in any office authorized to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term, or upon the occurrence of a vacancy in any elective office which can not be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor may in his discretion make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than **thirty** nor more than forty days from the date of the proclamation.

A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occurs before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly, unless occurring before the first day of April in any year, unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after October fourteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

Derivation: Election Law, § 4, as amended by L. 1907, ch. 119, § 1.

Amended by L. 1911, ch. 801, § 62, in effect Nov. 15, 1911.

Cross-References.—Legislature to provide for filling vacancies. N. Y. Const., art. 10, § 5 (part 2, post). Vacancies in offices of Judge of Court of Appeals, justice of Supreme Court, county judge or surrogate. N. Y. Const., art. 6, §§ 8, 4, 15 (part 2, post). Filling vacancies in elective offices generally. Public Officers Law, §§ 41, 42 (part 6, post). Terms of officers chosen to fill vacancies. Public Officers Law, § 38 (part 6, post). Creation of vacancies. Public Officers Law, § 30.

Application.—This section relates only to general elections and does not apply to a town meeting held at a time different than a general election. *People ex rel. Lovett v. Randall* (1895), 12 Misc. 619, 34 N. Y. Supp. 450.

Vacancy defined.—The word "vacancy" describes the condition of an office when it is first created and has not been filled by an incumbent. *Matter of Collins* (1896), 16 Misc. 598, 40 N. Y. Supp. 517.

When office vacant.—An office is vacant in the eye of the law whenever it is unoccupied by a legally qualified incumbent who has a lawful right to continue therein until the happening of some future event. *Matter of Collins* (1896), 16 Misc. 598, 40 N. Y. Supp. 517.

A newly created office which is not filled by the tribunal which created it becomes vacant on the instant of its creation. *Matter of Collins* (1896), 16 Misc. 598, 40 N. Y. Supp. 517.

Vacancy in office of recorder to be filled pursuant to this provision. *Reports of Atty.-Gen.* (1903), 503; (1904) 205.

Where a vacancy occurs in the office of sheriff between the fifteenth of October and the general election day in November following, it cannot be filled at that election, but a special election should be called for that purpose, of which not less than thirty or more than forty days' notice must be given. *Matter of Mitchell v. Boyle* (1916), 219 N. Y. 242.

The Governor has power to call a special election to fill a vacancy caused by the death of a sheriff, after October 15th. *People ex rel. Conklin v. Boyle* (1917), 96 Misc. 364, 163 N. Y. Supp. 72.

of elections, the commissioner of elections of each such commissioner has been appointed, and the clerk of the city of New York a like notice, and the commissioner of elections aforesaid and the clerk of the city of New York, shall, forthwith after receipt of such notice, file and record it in his office, and cause a copy of such notice to be published once a week for the period therein specified in the newspapers designated in such election notices, and in addition thereto on the day of the election for such special election, each clerk of the clerk of any county having a commissioner of elections, the commissioner of elections of each county, the commissioner has been appointed and the board of elections of the city of New York shall cause an adequate number of copies of such notices to be printed and placed in the places designated in such election notices for registration for such special election, and the chairman of the board of inspectors of elections applying for registration. In election districts where registration of electors is not required, after the day of the election the inspectors of elections shall deliver to the clerk all of the printed copies of such notices remaining on file in his hands and the town clerk shall within five days after the day of the election mail a copy thereof to each registered elector in the town, who has not received such copy from the inspectors of elections, the expense thus incurred shall be a county charge and not a town charge. The inspectors of elections of each county shall

Derivation: Election Law, § 6, as amended by L. 1897, ch. 379, § 2; L. 1901, ch. 95, § 2; L. 1905, ch. 643, § 2. Amended by L. 1910, ch. 446, in effect June 8, 1910.

Consolidators' note.—After "notice" the words "to the county clerk and the board of elections of the city of New York, and the commissioner of elections of the county of Erie," are omitted as unnecessary, the character of the notice being fully prescribed in the preceding section.

Cross-References.—Submission of constitutional amendments. N. Y. Const., art. 14 (part 2, *post*). Designation of newspapers to publish election notices. County Law, §§ 20-22.

Election notices, containing constitutional amendments, form of. Report of Atty.-Gen., (1905) 276.

Common council of a city has no power to require the insertion of certain questions on the official ballot. Report of Atty.-Gen., (1905) 498.

Numbering propositions.—Provision not applicable to questions relating to the selling of liquor. Matter of Webster, (1906) 50 Misc. 263, 100 N. Y. Supp. 508, *aff'd* 113 App. Div. 888, 98 N. Y. Supp. 1116.

Form of election notice containing constitutional amendments and other propositions. Rept. of Atty.-Genl., June 24, 1909.

The Secretary of State has no authority to publish or submit to the people a proposed amendment to the Constitution which has passed a previous Legislature, when the bill as passed a second time inadvertently directs that it be referred to the Legislature to be chosen at the next general election of senators. Rept. of Atty.-Genl., June 12, 1915.

§ 295. Publication of concurrent resolutions, proposing constitutional amendments and other propositions.

The secretary of state shall cause each concurrent resolution of the two houses of the legislature agreeing to a proposed amendment to the constitution, which is referred to the legislature to be chosen at the next general election of senators, to be published once, three months before such election, and thereafter twice in each of the three months next preceding such election in two newspapers published in each county representing the two political parties polling the highest number of votes at the then last preceding general election and in one additional newspaper published in each county for every one hundred thousand people in such county as shown by the then last preceding federal or state enumeration. Such additional newspapers shall be selected by the secretary of state with reference to making such publication in newspapers having the largest circulation in the county in which they are published. If such resolution does not state that such proposed amendment is so referred to such legislature, the secretary of state shall publish, in connection with the publication of such

fact that such submission will be made a in which it is to be submitted. If such proposition or question is to be submitted, to be held less than three months from its publication in each newspaper soon as practicable after such appointment, once in each week to the time of the election.

Derivation: Election Law, § 7.

Amended by L. 1913, ch. 820, and L. 1914, ch. 244, in

Cross-references.—Constitutional amendments to be published for three months. § 1, (part 2, post). Laws creating debt to be submitted. Const., art. 7, § 4 (part 2, post). Additional publication and Legislative Law, § 48. See, also, note to Election Law

Designation of papers to publish concurrent resolutions it was the legislative intent to leave the time of the selection of newspapers to the secretary of state, provided, however, that publication commence at least three months before the general election. Rept. of Atty.-Genl., (1908) 160.

Publication of election notices, etc. Rept. of Atty.-Genl.,

Publication of resolution proposing amendments to the Constitution of Atty.-Genl., July 9, 1909.

§ 296. Creation, division and alteration of election districts

Every town or ward of a city not subdivided into wards or districts shall be an election district. The town or ward containing more than four hundred voters and the ward of every city except New York and Buffalo, in which there is no ward containing more than four hundred voters, shall be a ward containing more than four hundred voters.

in such year, each of which shall be compact in form, wholly within the town or ward, and shall contain respectively as near as may be, three hundred voters, but no such ward or town shall be again divided into election districts until, at some general election, the number of votes cast in one or more districts thereof shall exceed three hundred and fifty; and in such case the redivision shall apply only to the town or ward in which such district is situated; provided, however, that in cities of the third class the common council, or other board or body charged with like duties, by resolution duly adopted at the time and to take effect as hereinbefore provided for the division of wards into election districts, may direct that wards in such city having five hundred and fifty voters or less shall not be divided but shall constitute one election district; or, that wards having five hundred voters or less, which have been divided into election districts pursuant to the foregoing provisions of this section, shall be consolidated into one election district. Such resolution shall fix and determine the polling place for such election district or consolidated districts and in all such cases it shall be the duty of the common council, or other board or body charged with like duties, to furnish such polling place with one booth for each seventy-five voters in such election district or consolidated districts, as shown by the last preceding registration of voters in such ward. If any part of a city shall be within a town, the town board shall divide into election districts only that part of the town which is outside of the city. No election district including any part of a city shall include any part of a town outside of a city.

A town or ward of a city containing less than four hundred voters, or an election district of a town containing less than three hundred voters may, in any year not later than the first day of July, be divided into election districts by the board or other body charged with such duty, to take effect on the sixth Wednesday before the general election in such year, when, in the judgment of such board or body, the convenience of the voters shall be promoted thereby. Upon the creation, division or alteration of an

division or alteration of a town, ward or city or occasioned by the division of a county is after a reapportionment by the legislature of : such creation, division or alteration of an c be made and shall take effect immediately; at tion for the new election districts as so create shall be appointed, in the manner provided l time before the next official primary or meet and such appointments shall take effect immo shall include a city, or a portion of a city, on tricts as are wholly outside of the city shall districts of the town, except for the purpose of

The board of elections of the city of New Y Erie shall divide the cities of New York and B into election districts on or before the first day c whenever necessary so to do as herein provided the sixth Wednesday before the general elec Each election district in the counties within the shall contain, so far as possible, four hundred however, that any election district containing dred voters, in such counties, made necessary congressional lines with other political dist

election districts so established in the city of New York shall not again be changed until at some general election the number of registered voters therein shall exceed four hundred and fifty, except where changes are made necessary by a change in the boundaries of congressional, senate, assembly, aldermanic or municipal court districts or ward lines, provided, however, that when the number of registered voters in an election district shall, in any year, be less than two hundred and fifty, such district may be consolidated with a contiguous election district in the discretion of said board of elections. In the city of New York each election district shall be compact in form, entirely within an assembly district and numbered in consecutive order therein respectively. In the year of any decennial reapportionment the board of elections of the city of New York shall rearrange the election districts throughout the city within assembly district lines as constituted pursuant to such reapportionment, to conform as to the number of voters to the provisions of this section, which rearrangement shall take effect before the fall primary in that year; and the appointment of inspectors of election for such election district, as altered or newly created, shall be made and shall take effect a reasonable time before such primary.

No election district shall contain portions of two counties, or two senate or assembly districts.

Derivation: Election Law, § 8, as amended by L. 1897, ch. 379, § 3; L. 1900, ch. 648, § 1; L. 1901, ch. 95, § 3; L. 1903, ch. 44, § 1; L. 1905, ch. 643, § 3, and ch. 675, § 1; L. 1906, ch. 570, § 1; L. 1907, ch. 472, § 1.

Amended by L. 1914, ch. 244; L. 1916, ch. 537; L. 1917, ch. 703, in effect June 1, 1917.

Consolidators' note.—Election Law, § 8, as amended by L. 1897, ch. 379, § 3; L. 1900, ch. 648, § 1; L. 1901, ch. 95, § 3; L. 1903, ch. 644, § 1; L. 1905, ch. 643, § 3, and ch. 675, § 1; L. 1906, ch. 570, § 1; L. 1907, ch. 472, § 1. A provision as to the bipartisan character of the board similar in effect to that omitted from new section 419 is here changed in a similar manner and for this same reason.

validity of his vote is not affected by the fact that the boundary line of the district. *People ex rel* 155 N. Y. 491, *aff'g* 88 Hun 617, 35 N. Y. Supp. 1

In general. — As to apportionment of electors: *Baird*, (1894) 142 N. Y. 523, *aff'g* 75 Hun 545, *of Smith*, (1895) 90 Hun 508, 36 N. Y. Supp. 40 N. Y. 187.

§ 297. Abolition, consolidation or changing of election districts.

If at a general election at which a governor is elected for governor in an election district in any town the town board of the town may, if such town contains more than two election districts, may at any time abolish the division of the town into election districts, and consolidate two or more of the other districts thereinto, or may change the boundaries of any one or more of the election districts, so that the number of voters in the town will exceed four times the number of voters in the last preceding election district and its annexation to one or more of the other districts, or may create one or more new election districts, so that the number of voters in any new district so created shall not exceed fifty, as indicated by such vote. An alteration made pursuant to this section, must be made on or before the first day of September next following the general election, and to take effect on the sixth Wednesday before the general election. If the election districts in a town are abolished pursuant to this section, the town board shall, on or before September first, appoint four inspectors of election for the next general election in such town, to take effect on or before the first day of September next following the general election, and not earlier than the second Wednesday following the general election, who shall be equally divided between the two parties, and shall be known as the boards of inspectors.

If a town has been divided into three or more election districts, and at any general election at which a governor is elected, the town board of such town does not vote to consolidate the election districts, or to change the boundaries of any one or more of the election districts, or to create one or more new election districts, the town board of such town may on or before the first day of September next following the general election, appoint four inspectors of election for the next general election in such town, to take effect on or before the first day of September next following the general election, and not earlier than the second Wednesday following the general election, who shall be equally divided between the two parties, and shall be known as the boards of inspectors.

contain more than three hundred voters as indicated by the last preceding vote for governor. If, in pursuance of this section, the boundaries of an election district in such town should be changed, or a new election district is created, by the consolidation of two or more districts or parts of districts, the town board shall on or before September first appoint for each such district so created, or changed, four inspectors of election, to take effect on or before the first day of registration thereafter and not earlier than the second Wednesday following the next fall primary, who shall be equally divided between the two parties entitled to representation on boards of inspectors. Such inspectors of election shall hold office until their successors are regularly elected in such election districts, in pursuance of law.

Derivation: Election Law, § 8-a, as added by L. 1906, ch. 159, § 1, and § 8-b, as added by L. 1907, ch. 470, § 1.

Amended by L. 1914, ch. 244; L. 1916, ch. 537, in effect May 15, 1916.

Consolidator's note.—Two provisions as to the bipartisan character of the board similar in effect to that omitted from new section 419 are here changed in a similar manner and for the same reason.

§ 491. Maps and certificates of boundaries of election districts.

When a ward of a city or an assembly district within a city shall be divided into two or more election districts, the officers or board creating, dividing or altering such election districts shall forthwith make a map or description of such division, defining it by known boundaries, and cause such map or description to be kept open for public inspection in the office of the city clerk, and cause one copy thereof to be posted not less than ten days prior to the first day of registration in each year at the last polling place of each former election district, or of each ward not previously divided into two or more election districts, which is affected by such alteration, division or creation of an election district or districts, and one copy thereof at each police station house in the ward or assembly district, and shall, prior to the first day of registration in each year, furnish copies of such map or description to the inspectors of election in each election district of such ward or assembly district; such maps to be posted in the place of registration and remain posted until the close of the general election. The remaining maps so printed shall be distributed in the discretion of said boards of elections, which shall have respectively the power to charge for each map a price not exceeding the cost of printing the same; and any moneys resulting from the sale thereof shall be paid to the comptroller of the city of New York or to the county treasurer of the county, in counties outside of the city of New York, for the benefit of the treasury of said city or county. The scale of such maps shall, so far as possible, be uniform and large enough to permit the printing of the street corner numbers of the block or blocks defining the extreme boundaries of each election district within or outside the lines of such block or blocks respectively; and such street corner numbers shall be printed in or outside such block lines upon said maps, so that the lowest and highest street numbers within the election district of every street bounding such election district shall be plainly shown thereon. The copies furnished to the inspectors of election shall have printed on each or affixed to each in some secure way the list of places designated pursuant to the next section as places at which the meetings for the registration of voters and the election shall be held during the year within such ward or assembly district.

The officers creating, dividing or altering an election district in a town shall forthwith make a certificate or map thereof, exhibiting the districts so created, divided or altered, and their numbers respectively and file the same in the county clerk's office except in the county of Erie, and in the county of Erie in the office of the commissioner of elections, and a copy thereof in the town clerk's office, and cause copies of the same to be posted in at least five of the most public places in each election district of such town, and the county clerk or commissioner of elections as the case may be, shall, prior to every general election, furnish copies of such maps or certificates, to the

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of election in each election district of each town, district is not coterminous with the town lines.

§ 2. Election Law, § 2, as amended by L. 1902, ch. 60, § 1; L. 1904, ch. 642, § 1.

§ 3. By L. 1917, ch. 703, in effect June 1, 1917.

§ 4. Not confined to new districts only, but to all districts. *Reynolds v. 227.*

Designation of places for registry and voting.

§ 5. On the first Tuesday of September in each year, the board of elections of each town, and the common council of each city, except the city of New York, shall designate in each election district in the city or town at least one place for the registration of voters and the election in each year; provided, however, that in the city of New York, the board of elections shall designate, if a schoolhouse or other public building is available, such place in each election district. In the city of Buffalo the board of education of the county of Erie shall designate such places for registration on the first Monday in August in each year.

§ 6. The room so designated shall be of a reasonable size, and shall be so arranged as to comfortably accommodate at least ten voters at one time, and comfortably accommodate at least ten voters at one time, and in cities containing a population of over one million or over such room must in addition be so arranged as to allow of the placing of the furniture in such polling place as provided in the election law.

§ 7. In cities containing a population of over one million or over such room may be designated, if a schoolhouse or other public building may be designated.

§ 8. The board of education consent and that the use of the room for registration and polling place shall not interfere with the use of the room for other purposes.

said board must send a written notice to each registered voter, notifying him of such change in the location of said polling place.

6. No intoxicating liquors, ale or beer shall be sold in such building in a city or such room or adjoining room elsewhere after such designation and before the general election next thereafter, or be allowed in any room in which an election is held during the day of election or canvass of the votes. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor.

7. If any place so designated shall thereafter and before the close of the election be destroyed, or for any reason become unfit for use, or can not for any reason be used for such purpose, the officers charged with the designation of a place for such election shall forthwith designate some other suitable place for holding such election. Not more than one polling place shall be in the same room, and not more than two polling places shall be in the same building.

Derivation.: Election Law, pt. of § 10, as amended by L. 1897, ch. 379, § 4; L. 1901, ch. 95, § 4; L. 1903, ch. 197, § 1; L. 1904, ch. 249, § 1; L. 1905, ch. 641, § 5; L. 1906, ch. 259, § 1.

Amended by L. 1910, ch. 428; L. 1915, ch. 678; L. 1916, ch. 537, in effect May 15, 1916.

Cross-References.—Local bills designating places of voting not to be passed by legislature. N. Y. Constitution, art. 3, § 18 (part 2, *post*). Liquor selling within one-quarter of a mile of any voting place is unlawful. Liquor Tax Law, § 30.

Polling place outside of district.—The word "elsewhere" in the constitutional provision that an elector must vote "in the election district of which he shall at the time be a resident, and not elsewhere," means some other election district polling place than that for the election district in which the voter resides. *People ex rel. Lardner v. Carson* (1898), 155 N. Y. 491, *aff'd* 10 Misc. 237, 30 N. Y. Supp. 817, 861 Hun, 617.

The designation under legislative authority of a polling place in a city for a town outside the city, at which residents of the town only and not residents of the city are allowed to vote, is not prohibited by the constitutional provision that an elector must vote "in the election district of which he shall at the time be a resident, and not elsewhere." *People ex rel. Lardner v. Carson* (1898), 155 N. Y. 491, *aff'd* 86 Hun, 617, which *aff'd* 10 Misc. 237, 30 N. Y. Supp. 817.

Construction of section by attorney-general.—When town board has neglected to designate polling places within time specified by law, such designation may be made subsequently. Report of Atty.-Gen. (1896), 231.

Election may be held in a room formerly used as a political club-room. Report of Atty.-Gen. (1896), 231.

The place for registration and for election must be within the borders of the election district. Report of Atty.-Gen. (1897), 205.

Burning of the building in which the election is being held does not *per se* vitiate the election. Report of Atty.-Gen. (1903), 280.

The fact that a room designated for polling place and the bar-room are on different floors does not avoid the prohibition of this section where it clearly appears that there is a passageway between the room designated and the bar-room. Rept. of Atty.-Gen. (1908), 532.

§ 300. Equipment of polling places.

The officers authorized to designate such places in any town or city shall provide for each polling place at such election, the necessary ballot and other boxes, guard-rails, voting booths and

instruction cards and markers not to be taken
tion law, § 350. Penalty for removal, mutilat
booths, supplies, poll-lists or cards of instructio
posts. Removal, mutilation, etc., of public co
Law, § 184.

Supplies referred to in this section mean suc
to be furnished by the county clerk. Report of

§ 300-a. Display of American flag.

The American flag shall be displayed
this state by the board of inspectors duri
boards are in session. The board, body
with the duty of defraying the expenses
and elections shall furnish said flag, which
three feet by five feet in size.

Added by L. 1913, ch. 783. In effect May 31, 19

§ 301. Publication of list of registration a

The officers authorized to designate th
ing places in any city, except the city of
to be published in two newspapers within
places so designated, and the boundaries c
in which such registration and polling place
the same time file said list with the state sup
Such publication shall be made in the new
each day of registration and the day of elec
newspaper be an evening newspaper it shall b
to each of such days. One of such newspa
one which supports the candidates nominated
party polling the highest number of votes in
ceding election for governor, and the other
shall be one which supports the candidates
the political party polling the next higher

and the boundaries of each election district therein in which such registration and polling place is located and shall at the same time file said list with the state superintendent of elections; except that in the borough of Brooklyn, such publication shall be made in the newspapers designated to publish corporation notices therein and in one daily newspaper published in the Jewish language; and except also that in the borough of the Bronx such publication shall be made in four newspapers published in the borough of the Bronx; and except also that in the borough of Manhattan such publication shall be made in five daily newspapers published in the borough of Manhattan which support the candidates nominated that year by the political party polling the highest number of votes in the state at the last preceding election for governor, and also in five daily newspapers published in the borough of Manhattan which support the candidates nominated that year by the political party polling the next highest number of votes for governor at said election, one of which newspapers may be a daily newspaper published in the German language and two of which newspapers may be daily newspapers published in the Jewish language; which publication shall include the list of such registration and polling places and their boundaries, in the respective counties in which the newspapers are published. Such publication shall be made in such newspapers upon each day of registration and the day of election excepting if such newspaper be an evening newspaper it shall be made on the day prior to each of such days or if such day be Sunday, on the preceding Saturday. Such publications shall be made in newspapers published in such boroughs which shall respectively support the candidates nominated that year by the political parties which at the last preceding election for governor respectively cast the largest and next largest number of votes in the state for such office.

The said board shall also cause to be published in the City Record on or before the first day of registration in each year a complete list of all the registration and polling places so designated and the boundaries of the election districts in which such places are located arranged in numerical order under the designation of the respective boroughs in which they are located.

In selecting the newspapers in which such publications are to be made the said board shall keep in view the object of giving the widest publicity thereto.

Derivation: Election Law, pt. of § 10, as amended by L. 1897, ch. 379, § 4; L. 1901, ch. 95, § 4; L. 1903, ch. 197, § 1; L. 1904, ch. 249, § 1; L. 1905, ch. 643, § 3; L. 1906, ch. 250, § 1.

Amended by L. 1913, ch. 687; L. 1914, ch. 238; L. 1916, ch. 537, in effect May 15, 1916.

Expense of publication.—The rate of compensation fixed by section 3317 of the Code of Civil Procedure for the publication of certain legal advertisements does not govern compensation for the publication of notices under the Election Law relative to the places of registration and election in election districts and the boundaries of said districts. *Mack v. City of Buffalo* (1900), 33 Misc 330, 66 N. Y. Supp. 672.

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Designation of newspapers.—When the board of elections of the city has, pursuant to a peremptory mandamus, rescinded its resolution authorizing the publication of a list of registration and polling places in certain newspapers and has designated certain other papers for publishing Democratic candidates and Democratic principles, no objection has in fact been made in the latter papers, an appeal from the original order directing the writ of mandamus should be denied. *People ex rel Quinn v Voorhis*, (1906) 115 App Div 118, 10 N. Y. 2d 186 N. Y. 283.

The section prescribes no test in the selection and appointment of newspapers to publish the list of the registration and polling places in Manhattan, except that they shall advocate the principles of the Democratic party polling the highest number of votes at the election for Governor, and therefore the courts have no power to grant a peremptory writ of mandamus requiring the board of elections to publish in four newspapers which support the candidates nominated at a certain convention held by one of the parties in the statute. *People ex rel Quinn v Voorhis*, (1907) 115 App. Div. 218, 100 N. Y. Supp. 927.

The statutory duty of the board of elections to designate newspapers in the city of New York to publish the list of registration and polling places and boundaries of election districts, is continuous and there is no statute authorizing the board to make a contract for the publication of such notices which would restrict the power of the board to change the number or more publication had been made. *Morning Telegraph v Board of Elections of New York*, (1909) 132 App. Div. 634, 117 N. Y. Supp. 511, 115 N. Y. Supp. 549.

Where the board of elections designated certain newspapers, members of the Democratic party, to publish such notices, and the publication of the notices by such newspapers for two days, the board, after a mandamus erroneously granted, rescinded its resolution authorizing the publication of the notices by the papers designated, this action of the board, although subsequent to the rendition of the judgment in the mandamus proceeding, does not constitute a bar to the granting of a new mandamus for the publication of the notices by the papers designated, and the costs of the first mandamus proceeding are a charge on the city.

if within the city of New York, or of the city if in any city, or of the election district of the town in which he is to serve, of good character, able to speak and read the English language understandingly, and to write it legibly, and who does possess a general knowledge of the duties of the office to which he is elected or appointed, or who is a candidate for any office to be voted for by the voters of the district in which he is to serve, or who has been convicted of a felony and not restored to citizenship, or who holds any public office except that of notary public or commissioner of deeds, town or village assessor, justice of the peace, police justice of a village, village trustee, water commissioner, officer of a school district, or overseer of highways, whether elected or appointed, or who is employed in any public office or by any public officer whose services are paid for out of the public money other than is excepted herein.

Each class of such officers shall be equally divided between the two political parties which at the general election next preceding that for which such officers are to serve, cast the highest and the next highest number of votes. Where election officers are appointed the qualifications required of them by this section shall be determined by an examination by or under the direction of the appointing board or officer.

Derivation: Election Law, § 11, subd. 1, as amended by L. 1897, ch. 410, § 1; L. 1898, ch. 335, § 2; L. 1899, ch. 630, § 1; L. 1901, ch. 95, § 5; L. 1901, ch. 536, § 1.

Amended by L. 1914, ch. 239, in effect Apr. 8, 1914.

Consolidators' note.—Until L. 1901, ch. 95, the matter in subdivision 1 constituted the whole section. That act added a new subdivision 2 creating a board of elections in New York city, and also corrected a defective expression in subdivision 1 that had been put in by L. 1899, ch. 630, which had provided that no inspector, etc., should be appointed "who is not a qualified elector of the county, if within the city of New York or of any other city or of the election district of the town in which he is to serve." L. 1901, ch. 95, had corrected this by making "or of any other city" read "or of the city or of any other city;" but chapter 536 (the succeeding and last amendment) followed the previous amendment (the draftsman presumably being ignorant of chapter 95) and revived the defect, at the same time wholly neglecting to recognize that the matter amended had become subdivision 1, and referring to it as "section eleven," and likewise ignoring the new subdivision 2. The defective expression is here cured again.

Cross-References.—Similar provisions as to qualifications. Public Officers Law, § 3 (part 6, *post*); Town Law, § 81 (part 8, *post*); Village Law, § 3 (part 9, *post*). Bipartisan election boards. N. Y. Constitution, art. 2, § 6 (part 2, *post*). Oath of office. Election Law, §§ 307, 357; Public Officers Law, § 3 (part 6, *post*); N. Y. Constitution, art. 13 (part 2, *post*). Failure to file returns. Public Officers Law, §§ 13, 30 (part 6, *post*); Penal Law, § 1829. Effect

failure to file on official acts. Public Officers Law, § 16 (Penal Law, § 182); Compensation for attendance at elections, Penal Law, § 319. Persons serving temporarily as inspectors of election not pay. Election Law, § 313. Exempt from civil service examination. Civil Service Law, § 9. Exempt from jury duty. Election Law, § 41. Ballot clerks where machines are adopted. Election Law, § 41. Election officer without being qualified, etc. Penal Law, § 704 (conduct by election officers. Penal Law, § 762 (part 5); post Compensation of election officers in towns. — If a different rate otherwise established as herein provided, each inspector of election and poll clerk is entitled to two dollars per day; but supervisors may establish in their county a higher rate, not more than three dollars per day. Town Law, § 85.

Inspectors. — Where the inspectors who opened the polls are not regularly sworn, and have been appointed by less than a majority of town officers, such appointment is, nevertheless, a valid appointment for them, and their acts as inspectors *de facto* are valid and persons are concerned. *People v. Cook*, (1853) 8 N. Y. 259.

Yet such defective appointment does not displace the elected inspectors appearing at the polls, have a right as inspectors *de jure* to conduct the election and make the returns. *People v. Cook*, (1853) 8 Barb. 259.

An omission by the inspectors of election to comply with a requirement as are directory and not jurisdictional does not prevent the votes cast in the district though the inspectors might be liable for omission by indictment. *People v. Cook*, (1853) 8 N. Y. 259.

Where the oath was irregularly administered to the inspectors, they were, however, ignorant of the fact, the oath was held to be valid and the election not vitiated. *People v. Cook*, (1853) 8 N. Y. 67, aff'g 14 Barb. 259.

The county canvassers have no right to reject the certificate of the inspectors if it is regular on its face and presented to them in time. *People v. Cook*, (1853) 8 N. Y. 67, aff'g 14 Barb. 259.

Division of election officers between political parties. — Where the division of election officers between political parties is made by lot, the lot is valid and the election is not vitiated.

This provision extends to persons holding office under the laws of the United States, as a postmaster. It is not retroactive. Report of Atty.-Gen. (1896), 226.

Poll clerks in towns hold office for two years. Report of Atty.-Gen. (1902), 310.

An irregularity in the appointment of inspectors will not invalidate the election at which they officiate. Report of Atty.-Gen. (1895), 253.

A person appointed to the office of inspector of election, who is later chosen to and serves in the office of village treasurer, may perform the duties of inspector of election while holding the other office. Report of Atty.-Gen. (1911), vol. 2, p. 451.

§ 303. Appointment of election officers in cities.

The board of elections of the city of New York and the mayor of each other city shall, on or before the first day of September of each year, select and appoint election officers for each election district therein, and may fill any vacancy which may occur before the opening of the polls on election day.

Each political party entitled to representation in any board of election officers may, not later than the first day of July in each year, file with such board or mayor an original list of persons, members of such party duly qualified to serve as election officers. A supplemental list of persons may also be filed containing not more than ten names for each office. Additional supplemental lists for any election district may be filed at any time before the appointments for such districts are made and certified by such board or mayor or when a vacancy shall exist in the original list by reason of the disqualification, resignation, declination, or withdrawal of the name by the person or persons submitting the same, of any person on such list, and all appointments shall be made from the original list if those named therein are found qualified; if not so qualified, then from a supplemental list so filed. If within ten days after notice in writing by the board or mayor to the chairman of the committee or other person by whom the list is filed or authenticated, such chairman or other person shall neglect to file an additional list, the board or mayor may appoint qualified persons, members of the party in default, to act as election officers.

Derivation: Election Law, pt. of § 12, as amended by L. 1897, ch. 379, § 5; L. 1898, ch. 675, § 1; L. 1899, ch. 630, § 2; L. 1901 ch. 95, § 6; L. 1904, ch. 70, § 1.

Cross-References. — See note to preceding section.

Election officers must be selected from State parties. — No local faction or organization is in and of a party and entitled to representation in the election officers, unless it is recognized by and thus actually in and of the State party organization. *People v. Gleason*, (1896) 18 Misc. 511, 76 N. Y. St. Rep. 1084, 42 N. Y. Supp. 1084.

The choosing of election officers from an irregular local organization in disregard of lists filed and authenticated by the regular local organization is a violation of the Election Law. *People v. Gleason*, (1896) 18 Misc. 511, 76 N. Y. St. Rep. 1084, 42 N. Y. Supp. 1084.

Selection from two dominant parties. — Only the two dominant political parties must be taken into consideration in choosing election boards, without regard to subordinate factions. *People ex rel. Van Wyck v. Wheeler*, (1879) 18 Hun 540.

Failure to appoint inspectors. — The failure to appoint inspectors within the time prescribed by law will not render subsequent appointments invalid in the absence of any statutory prohibition to that effect. *People ex rel. McMackin v. Board of Police*, (1887) 46 Hun 296, aff'd 107 N. Y. 235.

Failure of officers to take oath. — An election is not vitiated if inspectors or clerks fail to take oath, though such failure may be punished by indictment. *People v. Cook*, (1863) 8 N. Y. 84.

Appointment of election officers in New York county.—The power to select election officers in the county of New York rests in the county committee of the party, whose action is to be authenticated by the chairman of its executive committee; and where the power is so exercised and authenticated, the court will not consider a claim that a recommendation of a committee of an assembly district to the county committee was disregarded, although the recommendations of committees of other assembly districts were adopted. *Sheehan v. McMahon*, (1899) 44 App. Div. 63, 60 N. Y. Supp. 452, aff'd 28 Misc. 733, 59 N. Y. Supp. 969.

See also *People ex rel. Hayes v. MacLean*, (1890) 25 Abb. N. C. 466, 12 N. Y. Supp. 521; *People ex rel. Smith v. Hasbrouck*, (1878) 54 How. Pr. 418.

§304. Authentication of party lists.

In the city of New York such lists shall be authenticated and filed by the chairman of the county committee of the party in the respective counties within such city; in other cities, by the chairman or secretary of the general city committee of such party, if there be such a committee, or if not, then by the chairman or secretary of the general county committee of such party, if there be such a committee, or if not, then by the corresponding officer of any committee performing the usual functions of a city or county committee; provided, however, that if in any city more than one such list be submitted in the name or on behalf of the same political party, only that list can be accepted which is authenticated by the proper officer or officers of the faction or section of such party, which was recognized as regular by the last preceding state convention of such party; or, where no such convention has been held within the year, by the proper officer of the faction or section of said party which at the time of the filing of said list is recognized as regular by the state committee of such party which was organized by or pursuant to the direction of the last preceding state convention of such party.

Derivation: Election Law, pt. of § 12, as amended by L. 1897, ch. 379, § 5; L. 1898, ch. 675, § 1; L. 1899, ch. 630, § 2; L. 1901, ch. 95, § 6; L. 1904, ch. 70, § 1. Amended by L. 1915, ch. 678, in effect May 22, 1915.

Construction of section.—This section must be construed in the light of section 9 of the Primary Election Law (now Election Law, § 64), providing that each county or city committee and the officers thereof shall have all the power and authority, and shall perform all the duties in respect to the nominations of officials to serve at general elections conferred upon the general committee, the county committee, the State committee and the executive committee or officers thereof given to any party in the said city or county by this section. *People ex rel. McCarran v. Dooling*, (1908) 128 App. Div. 1, 112 N. Y. Supp. 71, rev'g 60 Misc. 132, 112 N. Y. Supp. 67, aff'd 193 N. Y. 604.

Although section 12 (now § 304) of the Election Law as originally enacted in 1896 contained a proviso that, if more than one list of election officers be submitted in the name of the same political party, only that list can be accepted which is authenticated by the proper officers of the faction which was organized as regular by the last preceding State convention of such party, and although said proviso was permitted to remain in the subsequent amendments to such section, nevertheless, on the enactment of the Primary Law in 1898, which expressly repealed all acts or parts of acts inconsistent therewith, the said proviso was repealed as otherwise the Primary Law would have been rendered nugatory. *People ex rel. McCarran v. Dooling*, (1908) 128 App. Div. 1, 112 N. Y. Supp. 71, rev'g 60 Misc. 132, 112 N. Y. Supp. 67, aff'd 193 N. Y. 604.

A "faction or section" of a political party cannot file a list of election officers merely because it has been recognized as regular by the State conven-

tion, if in fact the list was not filed by the chairman of any executive committee of a county committee constituted or attempted to be constituted by election at the primary election on the annual primary day. *People ex rel. McCarran v. Dooling*, (1908) 128 App. Div. 1, 112 N. Y. Supp. 71, rev'g 60 Misc. 132, 112 N. Y. Supp. 67, aff'd 193 N. Y. 604.

The recognition of a faction as regular by the State convention does not *ipso facto* absolve that body from compliance with the Primary Law in constituting its committees. A faction stamped as regular has no prerogative above the law and must be regular in its observation of the law as well as in its recognition by the State convention. *People ex rel. McCarran v. Dooling*, (1908) 128 App. Div. 1, 112 N. Y. Supp. 71, rev'g 60 Misc. 132, 112 N. Y. Supp. 67, aff'd 193 N. Y. 604.

Where an alleged committee of a faction of a political party was not voted for and made no contest for election as county committeemen at the previous primaries, no "faction, group or section" within the meaning of the Election Law is created or exists for the purpose of presenting the matter to the State convention to give it jurisdiction. *People ex rel. McCarran v. Dooling*, (1908) 128 App. Div. 1, 112 N. Y. Supp. 71, rev'g 60 Misc. 132, 112 N. Y. Supp. 67, aff'd 193 N. Y. 604.

Selection of election officers in New York county.—The power to select election officers in the county of New York rests in the county committee of the party, whose action is to be authenticated by the chairman of its executive committee; and where the power is so exercised and authenticated, the court will not consider a claim that a recommendation of a committee of an assembly district, to the county committee, was disregarded, although the recommendations of committees of other assembly districts were adopted. *Matter of Sheehan v. McMahon*, (1899) 44 App. Div. 63, 94 N. Y. St. Rep. 452, 60 N. Y. Supp. 452, aff'g 28 Misc. 733, 59 N. Y. Supp. 969.

§ 305. Examination as to qualifications.

All persons so proposed for appointment shall be examined as to their possessing the qualification required by section three hundred and two of this chapter by or under the direction of the mayor or board, who shall give five days' notice in writing of such examination to the person to be examined, and also the chairman of the committee or other person by whom the list is filed and authenticated, and such chairman or other person may appear and be heard at such examination, either in person or by counsel. If a person so nominated after examination is found qualified, under section three hundred and two of this chapter, he shall be appointed to the position for which he was recommended. If a person so proposed is found disqualified after examination, notice in writing to that effect shall be given by the mayor or board within three days after such disqualification is determined by such mayor or board, to the chairman of the committee or other person by whom the list embracing the name of the person so disqualified was authenticated, and the vacancy shall be filled by the appointment of a qualified person named in a supplemental list filed on behalf of the same party, except that if a party entitled to representation files no list the appointment may be made without such list, as provided in section three hundred and three, after examination. If the person recommended shall have served as an election official at any previous election, it shall not be necessary for him to be examined.

Derivation: Election Law, pt. of § 12, as amended by L. 1897, ch. 379, § 5; L. 1898, ch. 675, § 1; L. 1899, ch. 630, § 2; L. 1901, ch. 95, § 6; L. 1904, ch. 70, § 1.

Amended by L. 1911, ch. 649. In effect July 13, 1911

§ 306. Party selection in the city of New York.

In the city of New York the members of the board charged with the duty of appointing election officers, who represent the same political

...employee or said board of elections wh
said board in writing over the signature of its
said oath of office, and if in any other city, b
by any other person or persons designated by
and all of said officers, and all clerks or persons
or him for that purpose, shall be and are here
powered to administer such oath.

Every person so sworn as an election officer
cate of appointment and qualification, signed l
ministered the oath, in such form as may be app
mayor by which or whom he was appointed, and
and the election district in which he is to serv
expiration of his term of office.

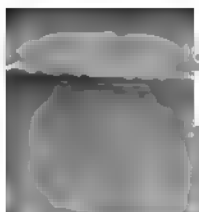
Derivation: Election Law, pt. of § 12, as amend
§ 5; L. 1898, ch. 675, § 1; L. 1899, ch. 630, § 2; L. 19
ch. 70, § 1.

Cross-References. — As to oath to be taken by
opening of polls on election day, see Election Law, §
Election Law, § 302.

Forms. — As to form of oath of office, see Forms (p

§ 308. Removals; vacancies; transfers.

Any election officer so appointed may be remo
board or mayor making the appointment, in whic
unless made while such officer is actually on duty
tration, revision of registration or election, and f
as election officer, shall only be made after noti
officer to be removed, which notice shall set forth
the reasons for his removal. In cities of the first
duty of the board or mayor making the appoint
officer, to remove forthwith such officer, without p
and without notice to such officer, upon the wr
official of the political party who certified the n
officer or his successor.



another after he has entered upon the performance of his duties and no election officer shall serve in any county save that in which he shall reside.

Derivation: Election Law, pt. of § 12, as amended by L. 1897, ch. 379, § 5; L. 1898, ch. 675, § 1; L. 1899, ch. 630, § 2; L. 1901, ch. 95, § 6; L. 1904, ch. 70, § 1.

Consolidators' note.—The provisions regarding penalties which in the original section appear between the two paragraphs of this section are here made section 310.

§ 309. Certificates of service; exemption from jury duty; payment.

The chairman of each board of inspectors of each election district shall, within twenty-four hours of any election, furnish to the mayor or board appointing such officers, if required so to do by such mayor or board, under his hand, a certificate stating the number of days of actual service of each member of such board, the names of the persons who served as poll clerks and ballot clerks on election day and the number of days during which the store, building or room hired for registration and election purposes was actually used for such purposes. Any person acting as such chairman, who shall wilfully make a false certificate, shall be guilty of a misdemeanor.

All persons appointed and serving as election officers on any of the days of registration or of election or of count of votes in cities of the first class shall be exempt from jury duty for one year from the date of the general election at which they serve. Such officers shall be paid by the comptroller of the respective cities within twenty days after the election at which such officers served, upon the certificate of the board or mayor appointing them.

Derivation: Election Law, pt. of § 12, as amended by L. 1897, ch. 379, § 5; L. 1898, ch. 675, § 1; L. 1899, ch. 630, § 2; L. 1901, ch. 95, § 6; L. 1904, ch. 70, § 1.

Form.—Form for chairman's certificate. See Forms (part 12, post).

§ 310. Special penalties.

Every person appointed as an election officer, failing to take and subscribe the oath of office as hereinbefore prescribed or who shall wilfully neglect or refuse to discharge the duties which he was appointed to perform, shall, in addition to the other penalties prescribed by law, be liable to a fine of one hundred dollars, to be sued for and recovered by the mayor or board making the appointment, in a court of record, for the use and benefit of the treasury of such city. Any election officer who, being removed for cause, shall fail upon demand to deliver over to his successor the register of the voters, or any tally sheets, book, paper, memorandum or document relating to the registration of voters or the election in his possession, so far as he has made it, shall be liable to a like penalty to be recovered in a like manner for the benefit of such city.

Derivation: Election Law, pt. of § 12, as amended by L. 1897, ch. 379, § 5; L. 1898, ch. 675, § 1; L. 1899, ch. 630, § 2; L. 1901, ch. 95, § 6; L. 1904, ch. 70, § 1.

ELECTION LAW.

Appointment of inspectors of election in towns.

provided in section two hundred and ninety-six, in town- shall be appointed by the town board at a town meeting is held for the election of town officers sixty days thereafter. Such appointments shall be prepared, certified and filed in the manner here provided for the two political parties entitled to representation in town officers. The town caucus or primary held for the purpose of nominating town officers shall contain the names of at least two persons, qualified to be inspectors of election, for each election district. The list shall be certified by the presiding officer and filed with the town clerk at the same time as the party certificate of nomination. From each of the two lists so filed, the town shall appoint two persons who possess the qualifications for election officers. If in any town more than one list is filed on behalf or in the name of the same political party, only one list can be accepted which is certified by the proper officer of the faction of such party which was recognized at the preceding state convention of such party, or if no such convention is held during the year, by the proper officer of such party, which at the time of the filing was recognized as regular by the state committee of such party. The appointment shall be made in writing and filed with the town clerk. The clerk shall forthwith notify each person so appointed to said office, in the manner in which he is now notified by the town clerk. The clerk shall also give notice to a person of his election to a town office if he does not appear upon the poll list at the town meeting.

office, when to be taken and filed. Town Law, § 83 (part 8, post). Power of town board to fill vacancies in any town office. Town Law, § 130 (part 8, post). As to oath of office, see also Election Law, §§ 307, 367; N. Y. Const., art. 13 (part 2, post); and Public Officers Law, § 10 (part 6, post). See also notes to Election Law, §§ 302 and 307.

Forms. — Form for bill for compensation of election officers in towns. See *Forms* (part 12, post).

Compensation of town election officers. — "If a different rate is not otherwise established as herein provided, each inspector of election, ballot clerk and poll clerk is entitled to two dollars per day; but the board of supervisors may establish in their county a higher rate, not exceeding six dollars per day." Town Law, § 85.

Although town election officers were employed from five A. M. until nearly midnight at a general election, *Acld.*, that they were only entitled to one day's pay under section 178 (now § 85) of the Town Law and that the statute fixing the number of hours which shall constitute a day's work by its terms does not apply to such offices. *People ex rel. Kleet v Town Bd. West Turin*, (1899) 27 Misc. 470, 59 N. Y. Supp. 234.

Account of inspectors, etc., in towns, how made out. — "No account shall be audited by any board of town auditors or supervisors . . . for any services or disbursements unless such account shall be made out in items and accompanied with an affidavit attached thereto, and to be filed with such account, made by the person presenting or claiming the same, that the items of such account are correct and that the disbursements and services charged therein have been in fact made or rendered or are necessary to be made or rendered at that session of the board, and stating that no part thereof has been paid or satisfied; and the chairman of the board . . . may administer any oath required under this section." Extract from Town Law, § 175.

§ 312. Appointment of poll clerks and ballot clerks in towns.

At the first meeting in each year of the board of inspectors in every district in a town, one poll clerk and one ballot clerk shall be appointed by the two inspectors of election representing one of the political parties entitled to representation on such board, and one poll clerk and one ballot clerk shall be appointed by the two inspectors representing the other political party. Such appointments shall be in writing, signed by the inspectors making the appointments respectively, and shall be filed by them with the town clerk of the town in which such election district is situated, and a copy thereof with the post-office address of each person so appointed shall be mailed to the clerk of the county.

The poll clerks and ballot clerks so appointed shall hold their office during the term of office of the inspectors appointing them, except as hereinafter provided. The persons so appointed as poll clerks and ballot clerks shall be voters in the district in which they are appointed to serve, and shall possess the qualifications required of such officers by section three hundred and two of this article.

If at the time of any election at which poll clerks and ballot clerks are required to be present at the polling place in any election district, the office of a poll clerk or of a ballot clerk of such district shall be vacant, or a poll clerk or a ballot clerk shall be absent, the inspectors of election in such district shall forthwith appoint a person to fill such vacancy. Such person so appointed shall, before he acts as such poll clerk or ballot clerk, take the constitutional and statutory oaths of office.

Derivation: Election Law, pt. of § 13, as amended by L. 1898, ch. 335, § 2; L. 1901, ch. 536, § 2.

boxes.

if boxes appropriately and conspicuously marked this
occasion shall require, to receive
presidential electors,
general officers.

in constitutional amendments and questions submitted
on town propositions and upon town appropriations,
active in printing or spoiled and mutilated.
shed from ballots.

It be supplied with a sufficient lock and key and with an
top large enough to allow a single folded ballot to be
rough the opening, but no larger. It shall be large
ve all the ballots which may be lawfully deposited
lection, and it shall be well and strongly made and be
t and blanches.

ry inspector of elections shall be personally responsible
of each box and its contents from the time the election
box is delivered, according to law, to the person entitled
Upon making any such delivery each inspector of elec-
tified to a receipt for each box delivered.

election law, § 16 as amended by L. 1900, ch. 351 § 1, L.
L. 1904, ch. 733 § 1.

1911, ch. 649; L. 1913, ch. 821; L. 1917, ch. 703, in effect.

booths and guard-rails.

in each polling place during each election a sufficient
ing booths, not less than one for every seventy-five



tion officers and every part of the polling place except the inside of the booths shall be in plain view of the election officers and the persons just outside the guard-rail. Such booths shall be so arranged that there shall be no access to intending voters or to the booths through any door, window or opening, except by the door in front of said booth.

Derivation: Election Law, § 17.

Cross-References. — Supplies for voting booths, how furnished. See Election Law, § 341. Removal, mutilation or destruction of election booths, supplies, etc. Penal Law, § 758 (part 5, *post*).

§ 318. Apportionment of election expenses.

The expense of providing polling places, voting booths, supplies therefor, guard-rails and other furniture of the polling place, and distance markers, and the compensation of the election officers in each election district, shall be a charge upon the town or city in which such election district is situated, except that such expenses incurred for the purpose of conducting a village election not held at the same time as a general election shall be a charge upon the village.

The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers to be used at a town meeting or city or village election not held at the same time as a general election, and of printing the lists of nominations therefor shall be a charge upon the town, city or village in which the meeting or election is held. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers to be used in any county, except such counties or portions thereof as are included within the city of New York, at any other election, if no town meeting or city or village election be held at the same time therewith, and of printing the lists of nominations therefor, shall be a charge upon such county. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers, to be used in any such county at any other election, and of printing the lists of nominations therefor, if the town meeting or city or village election be held in such county at the same time therewith, shall be apportioned by the county clerk between such town, city or village and such county, in the proportion of the number of candidates for town, city or village officers on such ballots, respectively, to the whole number of candidates thereon, and the amount of such expense so apportioned to each such municipality shall be a charge thereon.

Whenever voting machines are used in an election by any city, town or village, only such expenses as are caused by the use of such machines, and such as are necessary for the proper conduct of the elections as required by this chapter shall be charged to such city, town or village.

All expenses relating to or connected with elections lawfully incurred by the board of elections of the city of New York shall be a

boxes.

At boxes appropriately and conspicuously marked must
 on election shall require, to receive
 presidential electors.

general officers.

on constitutional amendments and questions submitted,
 on town propositions and upon town appropriations,
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 Upon making any such delivery each inspector of elec-
 entitled to a receipt for each box delivered.

Section Law 316, as amended by L. 1900, ch. 781, § 1, L.
 L. 1903, ch. 733, § 1

, 1911, ch. 642; L. 1913, ch. 521, L. 1917, ch. 701, in effect

booths and guard-rails.

in each polling place during each election a sufficient
 ing booths, not less than one for every seventy-five

tion officers and every part of the polling place except the inside of the booths shall be in plain view of the election officers and the persons just outside the guard-rail. Such booths shall be so arranged that there shall be no access to intending voters or to the booths through any door, window or opening, except by the door in front of said booth.

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Whenever voting machines are used in an election by any city, town or village, only such expenses as are caused by the use of such machines, and such as are necessary for the proper conduct of the elections as required by this chapter shall be charged to such city, town or village.

All expenses relating to or connected with elections lawfully incurred by the board of elections of the city of New York shall be a

ty, and after being audited by the proper officer, the comptroller of said city upon the certificate

in Law, pt. of § 16, as amended by L. 1907, ch. 379 § 4, L. 1908, § 3, L. 1909, ch. 30, § 2, and ch. 711, § 1 (1909) in

York city of list of registration and polling places. See N. Y. City of New York, (1909) 121 App. Div. 64, 121 N. Y. S. 411, 121 N. Y. Supp. 149

election officers and others.

clerk of each county, not salaried, shall be paid by reasonable compensation for his services in carrying out this chapter, to be fixed by the board of supervisors, or the board acting as such board of supervisors. clerk of each town shall be paid by such town a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the other members of the town board. Ballot clerks shall receive the same compensation at an election as inspectors of election for their services paid in like manner. Poll clerks shall receive the same compensation for their attendance at an election and carrying out the provisions of this chapter as inspectors of election and be paid in like manner. Any person lawfully required to file papers in his office shall, unless he resides in the county if he is in New York, or in any other city or town in which he is located, be entitled to receive as compensation therefor the sum of four cents a mile for every mile actually traveled between his residence and such county office, and returning from such office.

and cannot refuse on the ground that the allowance was unreasonable. *People ex rel. Godney v. Sippell*, (1907) 116 App. Div. 753, 102 N. Y. Supp. 69.

§ 320. Delivery of election laws to clerks, boards and election officers.

The secretary of state shall at least sixty days before each general election cause to be prepared a compilation of the election law with explanatory notes and instructions, properly indexed, and procure the same to be printed by the legislative printer, and transmit to the board of elections of each county, and to the board of elections of the city of New York, located in the borough of Manhattan, and to the branch office of the board of elections in each of the other boroughs of the city of New York, a sufficient number of copies thereof to furnish one such copy to each member of each such board and to each of said branch offices of the board of elections of the city of New York and one to each county, town, village and city clerk and to each election officer in any such county and said boroughs, together with such number of extra copies as may in his judgment be necessary to replace copies lost or mutilated before delivery thereof to election officers.

The board of elections of each county, except those counties the whole of which is included within the city of New York, shall forthwith transmit one of such copies to each of such officers in such county, and the board of elections of the city of New York shall cause to be delivered one of such copies to each of such officers in the city of New York. Each copy so received by each such officer shall belong to the office of the person receiving it. Every incumbent of the office shall preserve such copy during his term of office and upon the expiration of his term or removal from office deliver it to his successor. The secretary of state shall also transmit to the state superintendent of elections a sufficient number of such copies to furnish one of such copies to the superintendent and to each deputy.

Derivation: Election Law, § 19, as amended by L. 1897, ch. 379, § 7; L. 1898, ch. 630, § 4; L. 1901, ch. 95, § 8; L. 1905, ch. 643, § 6.

Amended by L. 1916, ch. 537, in effect May 15, 1916.

Constitutional.—The provision of this section authorizing the secretary of state to print a compilation of the Election Laws does not violate the provision of the United States Constitution prohibiting the passage of laws impairing the obligation of contracts. *People ex rel. Weed-Parsons Printing Company v. Palmer*, (1896) 18 Misc. 103, 41 N. Y. Supp. 878.

ARTICLE 9.

BALLOTS AND STATIONERY.

Ballots for elections.
 Form of ballots, form of ballots for candidates.
 Ballot for questions submitted.
 Ballots, instruction cards and stationery.
 Sample ballots in the year nineteen hundred and
 one, distribution of such ballots.
 Forms for election officers.
 Ballot clerk's return.
 Tally sheets.
 Return and tally of votes cast for presidential electors.
 Return and tally of votes for officers other than presi-
 dential electors.
 Return and tally of votes upon questions submitted.
 Official ballots.
 Providing ballots and stationery.
 Inspection of ballots.
 Counting of ballots and stationery.
 Errors and omissions in ballots.
 Official ballots.

Ballots for elections.

It shall be provided at public expense at each poll-
 ing election at which public officers are to be
 elected, the sample except in election of school de-



dred sheets of which twenty-five by thirty-eight inches in size shall weigh sixty pounds and shall test for that size and weight at least twenty points on a Morrison tester. They shall be rectangular in shape, not less than eight inches in width and twelve inches in length, and shall have a margin extending beyond any printing thereon.

All ballots of the same kind for the same polling place shall be of precisely the same size, quality and shade of paper, and of precisely the same kind and arrangement of type and tint of ink. A different, but in each case uniform, kind of type shall be used for printing the names of candidates, the titles of offices, political designations, and the reading form of constitutional amendments and other questions and propositions submitted. The names of candidates shall be printed in capital letters in black-faced type not less than one-eighth nor more than three-sixteenths of an inch in height.

Each ballot shall be printed on the same sheet with a stub and shall be separated therefrom by a horizontal line of perforations extending across the entire width of the ballot. On the face of the stub shall be printed the instructions to voters hereinafter provided. On the back of the stub, immediately above the center of the indorsement on the back of the ballot hereinafter referred to, shall be printed "No." the blank to be filled with the consecutive number of the ballot, beginning with "No. 1," and increasing in regular numerical order.

On the back of the ballot, below the line of perforations, just to the right of the center, and outside when the ballot is folded, shall be printed the following indorsement, the blanks being properly filled and the numbers running from one upward, consecutively:

Official ballot (for Presidential Electors).

County of

.....Assembly District (ward or town).

.....Election District.

(Date of Election.)

(Facsimile of the signature of officer causing the ballot to be printed.)

Each ballot shall be printed in sections, on which the candidates' names, emblems and political designations, or the constitutional amendment, or other question submitted, with the voting squares, and other requisite matter shall be boxed in by heavy black lines in the manner indicated in the illustration of the ballot hereinafter provided. The voting squares and the spaces occupied by emblems shall have a depth and width of five-sixteenths of an inch.



ions shall be so numerous as to make the ballot
re printed in one column, they may be printed
as shall be necessary, and in that case, in order
rectly rectangular ballot, blank sections may be

shall be voting squares in which voters may make
All voting squares shall be bounded by heavy
pendicular lines to be not less than one-sixteenth
In all ballots there shall be a perpendicular
squares, and in the ballot for general officers, in
date for governor or member of assembly nomi-
re political organizations, the additional squares
ally as provided in subdivision three of this sec-
squares shall be provided in the blank spaces for

ing the same number at the same election shall
ballots.

organization whose party name contains more
shall select an abbreviated form thereof con-
than eleven letters which shall be used upon the
the necessities of space shall so require. The
shall be certified at the same time and in the
party names are required to be certified. In
of candidates whose full names contain sixteen
more than one name other than the surname
may be used in any

which voters may write the names of candidates for presidential electors not on the ballot and which shall be sufficient to contain as many names as there are electors to be chosen. It shall be designated as the blank column and shall contain no voting spaces. At the head of each party column shall be printed the party emblem; below this a blank circle three-quarters of an inch in diameter; below this the party name in large type; below this the names of the candidates for president and vice-president; and below this a heavy line dividing the heading from the names of the presidential electors. Above the name of the first elector shall be printed the words "presidential electors." The names of the presidential electors shall be printed in spaces one-quarter of an inch in depth, except that the first space containing also the words "presidential electors" shall be half an inch in depth. The spaces shall be divided from each other by light horizontal lines. At the left of the name of each elector shall be printed a voting space one-quarter of an inch square, except the space opposite the first name, which shall be half an inch in depth.

Each party circle shall be surrounded by the following instructions, plainly printed: "For a straight ticket, mark within this circle."

The columns for the presidential electors of independent bodies shall be similar to the party columns except that above the emblem in each column shall be printed the words "independent nominations" in large type like that used for the party names.

In the blank column the space occupied by the emblem and voting circle in the party column shall be occupied by the following instructions, plainly printed: "In the column below, the voter may write the name of any person for whom he desires to vote whose name is not printed on the ballot." Below the line dividing the heading from the blank spaces shall be printed, as in the other columns, the words "presidential electors."

The columns shall be arranged upon the ballot as directed by the secretary of state, precedence, however, being given to the several parties according to the number of votes for governor polled at the last preceding gubernatorial election.

On the stub at the top of the ballot shall be printed in heavy black type the following instructions:

"1. To vote for all the electors of one party make a cross X mark within the circle above the party column.

2. To vote for some, but not all, of the electors of one party make a cross X mark in the square at the left of the name of every candidate printed on the ballot for whom you desire to vote. If you mark any individual elector, you must mark all for whom

3. To vote for any candidate not on the ballot write his name in the blank space provided therefor.

4. Mark only with a pencil having black lead.

5. Any other mark or any erasure or tear on the ballot renders it void.

6. If you tear, or deface, or wrongly mark this ballot, return it and obtain another.

3. *Ballots for general officers.* The names of all candidates for any one office shall be printed in a separate section, and the sections shall be in the customary order of the offices and shall be numbered from one upward by a numeral printed in the upper right hand corner of the section. The names of candidates shall be printed in their appropriate section in such order as the board of elections may direct, precedence, however, being given, except as herein otherwise provided, to the candidate of the party which polled the highest number of votes for governor at the last preceding election for such officer, and so on. At the top of each section in the center shall be printed on one line the title of the office. On the same line, to the left of such title and immediately above the emblems and voting squares, there shall be printed a direction as to the number of candidates for whom a vote may be cast, which direction shall be punctuated by an exclamation point. If two or more candidates are nominated for the same office for different terms, the term for which each is nominated shall be printed as a part of the title of the office. At the bottom of each section as many separate spaces as there are candidates to be elected shall be left blank in which the voter may write the names of any candidates not on the ballot. Except as herein otherwise provided with respect to a candidate for the office of governor or of member of assembly who is nominated by more than one political organization, there shall be printed on each line below the top, in the following order, from left to right, the party emblem, the voting square, the candidate's name and the name of the party by which he is nominated. The width of the enclosure containing the name of the candidate and of such party shall not exceed three and one-half inches. In any case where a candidate for public office is nominated by more than one political organization, the party names and emblems shall appear in the order of priority based on the relative number of votes cast for governor by each organization at the preceding election of a governor. In any such case, the emblems shall be arranged horizontally before the voting square, beginning next to the square immediately preceding the name of the candidate with the emblem of the party casting the highest number of such votes. When any candidate for the office of governor or

member of assembly is nominated by more than one political organization, there shall be one voting square in the same horizontal row as the emblems, to the right of each emblem before the name of a candidate so nominated for such office. The final letter of the party name or names shall be close to the right hand perpendicular line of the box, and any space between the candidate's name and his party name or names shall be filled with dotted or waved lines.

On the stub at the top of the ballot shall be printed the following directions to the voter:

1. To vote for a candidate on this ballot make a single cross X mark in one of the squares to the right of an emblem opposite his name.
2. To vote for a candidate not on this ballot write his name on a blank line under the candidates for that office.
3. Mark only with a pencil having black lead.
4. Any other mark, erasure or tear on this ballot renders it void.
5. If you tear, or deface, or wrongly mark this ballot, return it and obtain another.

In direction number one the words "right" and "emblem" shall be underlined.

Derivation: Election Law, § 81.

Amended by L. 1911, chs. 649 and 872, in effect Oct. 4, 1911. Repealed and new section inserted by L. 1913, ch. 821, in effect Dec 17, 1913. Amended by L. 1914, chs. 87 and 244; L. 1916, ch. 537, in effect May 15, 1916.

Cross-references.—As to errors and omissions in ballots, see Election Law, § 344, and note. Form where voting machine is used. See Election Law, § 397.

It is the intention of the Ballot Law (ch. 810 of 1895) to spread before the voter the names of the various persons for whom he is called upon to vote, and he is allowed to vote a straight party ticket or a straight independent ticket or an eclectic ticket, as he sees fit. Devices or emblems were resorted to in order to enable an illiterate voter to attain these ends. *Fernbacher v. Roosevelt* (1895), 90 Hun, 441, 35 N. Y. Supp. 898.

It is the intention of the statute that there shall be a single column for a single party and a single device at the head of that column so that the voter who desires to vote a straight ticket may vote the ticket under that column. *Fernbacher v. Roosevelt* (1895), 90 Hun, 441, 35 N. Y. Supp. 898.

An independent party may nominate the same individuals as are nominated by an existing political party, but they must nominate them as an independent party, place under their devices and list them under their ticket. *Fernbacher v. Roosevelt* (1895), 90 Hun, 441, 35 N. Y. Supp. 898.

Constitutionality of amendment of 1911.—Chapter 649 of the Laws of 1911, amending this section so that although a person shall have been nominated by more than one political party for the same office his name shall be printed but once upon the ballot and in the column of the party nominating him which first appears upon the ballot, unless the candidate requires it to be printed in the column of some other party which nominated him, is unconstitutional. *Hopper v. Britt* (1911), 203 N. Y. 144, rev'g 146 App. Div. 363, rev'g 73 Misc. 369.

the various official ballots, the county clerk takes into consideration the nominations for State and district offices which have been filed with the clerk of the state and the nominations for local offices which are filed in his own office. In combining the names to go upon a ballot he is to select, so far as party nominations are concerned, those nominated by one and the same party, and when there are nominations from the same party he cannot refuse to place one on a ballot with the State nominees simply because the factional nomination was not recognized by the last State convention. It is to inquire and determine as a matter of fact whether it is a part of such party or not. If it is, its local candidates go on a ballot with the State ticket. If it is not, they should go on a separate ballot, with blanks so far as relates to State officers. (1894) 81 Hun 401, 30 N. Y. Supp. 962; Matter of *McLaren*, (1894) 30 N. Y. Supp. 854.

Whether regular or not, may have the State nominees of which it adheres and also all kindred local nominees printed on a ticket. (1895) 10 Misc 56, 30 N. Y. Supp. 834. Candidates to be voted for at a general election, including those who are not nominated by the party, shall be placed on the official ballot prepared by the county clerk. (1890) 34 N. Y. St. Rep. 634, 13 N. Y.

It is for the county clerk in making up the official ballots to place under the head or emblem of a particular party the names of those nominated by that party, although he may know that some of them are not nominated by that party. Matter of *Madden*, (1895)

When the county clerk the duty of combining allied nominations and making up the official tickets and ballots from the certificates of nomination. Matter of *Hirsh*, (1895) 14 Misc 377, 71 N. Y. St. Rep. 19.

CONTRACT WITH COUNTY CLERK for printing to be made by the county clerk.

1. To vote "Yes" on any question make a cross X mark in the square opposite the word "Yes."
2. To vote "No," make a cross X mark in the square opposite the word "No."
3. Mark only with a pencil having black lead.
4. Any other mark, erasure or tear on the ballot renders it void.
5. If you tear, or deface, or wrongly mark this ballot, return it and obtain another.

The questions shall be numbered consecutively on the face of the ballot, and on the back of each voting section shall be printed the number of the question which it contains.

So far as possible the ballots upon town propositions shall conform to the directions herein contained respecting the ballot on constitutional amendments and questions submitted.

All ballots for the submission of town propositions for raising or appropriating money for town purposes, or for incurring a town liability, to be voted at any town meeting in any town, shall be separate from all other ballots for the submission of other propositions or questions to the electors of such town to be voted at the same town meeting or election. Such ballots shall be indorsed "ballot upon town appropriations."

Derivation: Election Law, § 82, as amended by L. 1900, ch. 381, § 4; L. 1901, ch. 598, § 3.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

This section does not apply to an election held to determine the question of the incorporation of a proposed village. The general act for the incorporation of villages (ch. 291 of 1870) is not repealed directly or by implication by the Election Law. Official ballots need not be used in such an election. *Matter of Taylor* (1896), 3 App. Div. 241, 38 N. Y. Supp. 348, aff'd 150 N. Y. 242.

Form of ballot.—What addition to the ballot does not render it void. *People ex rel. Williams v. Bd. of Canvassers* (1905), 105 App. Div. 127, 94 N. Y. Supp. 996, aff'd 183 N. Y. 538.

A question as to whether a village shall establish a lighting plant, submitted to the electors under section 241 of the Village Law, does not violate section 32 (now section 332) of the Election Law in stating more than one question because the ballots as printed authorized lighting by water power, steam power or purchased electric current, or any approved combination of these methods, but merely gives the village officers discretion in choosing the method to be used. *Everett v. Village of Potosdam* (1906), 112 App. Div. 727, 98 N. Y. Supp. 963.

Ballots for raising money must be separate. Report of Atty.-Gen., (1903) 271.

Local option propositions.—It is not a valid objection to the legality of the submission of a local option proposition, when clearly distinguished upon a ballot, that the ballot contains constitutional amendments submitted to the people. *Matter of Arnold* (1900), 32 Misc. 439, 66 N. Y. Supp. 557.

The provision of section 6 (now § 294) of the Election Law that amendments, propositions or questions shall be separately and consecutively numbered does not apply to questions relating to the selling of liquor or to local option; but the provisions of section 82 (now § 332) of the Election Law, requiring a separate ballot where an amendment, proposition or question is to be submitted to vote and, where two or more are to be submitted, that they shall be separately numbered and printed, do apply to such ques-

Webster (1906), 50 Misc. 253, 100 N. Y. Supp. 508, *aff'd*, 88 N. Y. Supp. 1116. See also opinion of Atty.-Gen. in 1900.

Sample ballots, instruction cards and stationery.

At least one of each kind equal in number to ten per centum of the official ballots provided therefor, shall also be provided for every polling place for which official ballots are required to be provided. Such sample ballots shall be printed on paper of a different color from any of the official ballots and shall be marked on the stubs, but shall, in all other respects, be identical with the official ballots to be voted at that polling place. One of each kind of such sample ballots shall, at any time before the election, be furnished upon application to any voter at that polling place, and may be taken by him to the polling place before receiving his official ballot or

instruction cards, printed in English, and two printed in other languages as the officer or officers charged with the duty shall deem necessary, shall also be provided for every polling place, containing in clear large type, in red ink, the instructions to voters as to the manner of voting, and in large type, a copy of such sections of the penal law relating to the elective franchise as the board of elec-

tion laws, § 333, and § 333a, shall require.

§ 334. Blank forms for election officers.

1. *General provisions.* At each election at which official ballots shall be used the officers charged with the duty of furnishing official ballots shall furnish to the board of inspectors of each election district printed blanks upon which the election officers shall make written returns showing the performance of their duties as such officers. These blanks shall include blanks for a return by the ballot clerks, tally sheets for tallying the votes as canvassed, and blanks for a return by the inspectors of the votes as tallied. There shall be furnished for each election district three copies of each of the return sheet blanks and two copies of each of the tally sheet blanks required at that election district and no more. Each blank shall have at the top in large letters a descriptive title according to the nature of the blank. It shall also contain immediately under the title a heading, showing the kind of election, whether special or general, the date, the name of the county, and the number of the assembly district and of the election district in which it is to be used. The other printed matter to appear on the several blanks shall be as hereinafter provided.

2. *Forms of returns and tally sheets.* The return blanks and tally sheet blanks shall be as nearly as possible in the forms hereinafter provided, and all returns and tally sheets must be kept and filled out according to the forms so provided and in accordance with the instructions contained therein.

In printing the forms, the matter in brackets, [] being instructions to the printers, is to be omitted. The printer shall also omit the names and figures which are inserted in the forms for the purpose of illustration.

A separate tally sheet shall be provided for each office or con-

amendment or question submitted for which votes are
used.

ty for refusal to fill out returns and tally sheets. Any
eer who shall willfully neglect or refuse to fill out
or tally sheet according to the directions of this chapter
ty of a misdemeanor.

Election Law, pt. of § 34.

y L. 1913, ch. 821, in effect Dec. 17, 1913.

n of ballot clerk's return.

t clerk's return shall be in the following form:

BALLOT CLERKS' RETURN.

ection. County of.....
.....Assembly District.
....., 19Election District.

Number of Official Ballots for [General Officers]		
at	800	
Cancelled before delivery to voters	2	
Collected and returned by voters	25	
Remaining unused	228	315
Remaining to be accounted for in the ballot box	485	

and that the foregoing is a correct return of the ballots delivered to us for the election held on the _____ day of November, 19____, at the _____ Election District in the _____ Assembly District in the County of _____, and of the disposition thereof at such election.

Sworn to before me this _____ day of November, 19____.

.....Ballot Clerk.
.....Ballot Clerk.

.....
Inspector of Elections.

Derivation: Election Law, pt. of § 84.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

Cross-references.—As to recount upon judicial investigation of ballots, see Election Law, § 381.

The duty of the inspectors to transcribe from the tally sheet on the official statement the totals is purely ministerial. *Matter of Stewart*, (1897) 24 App. Div. 301, 48 N. Y. Supp. 937, aff'd 135 N. Y. 545.

The tally sheet is an essential part of a canvass, and the inspectors may be compelled by mandamus to make their returns agree with the tally sheets. *Matter of Stewart*, (1897) 24 App. Div. 301, 48 N. Y. Supp. 937, aff'd 135 N. Y. 545.

Recount.—The recount provided for in this section means a recount of the ballots which have been canvassed and recorded on a tally sheet on the theory that a mistake is due to the fact that the tally sheet did not set forth in the various columns all the ballots subject to canvass. *Matter of Stiles*, (1902) 69 App. Div. 589, 75 N. Y. Supp. 278.

Where it appears, simply, that the number in the final column of the tally sheet is 482 and that the ballot clerk's return states that the number of official ballots actually voted is 494, a peremptory writ of mandamus will be issued requiring the election officers to reconvene and recount the ballots. *Matter of Stiles*, (1902) 69 App. Div. 589, 75 N. Y. Supp. 278.

Poll clerks are necessary parties to a mandamus proceeding to compel election officials to reconvene and recount the ballots. *Matter of Stiles*, (1902) 69 App. Div. 589, 75 N. Y. Supp. 278.

Upon a recount the first step to be taken is to ascertain whether the total number of ballots stated in the final column of the tally sheet represents every ballot which could have been canvassed, and if it appears that there was a greater number to be accounted for the election officials should proceed to recount all the ballots found in the ballot box in conformity with the provisions of the Election Law. *Matter of Stiles*, (1902) 69 App. Div. 589, 75 N. Y. Supp. 278.

The ballot clerk's return is not conclusive as to the number of ballots actually voted. *Matter of Stiles*, (1902) 69 App. Div. 589, 75 N. Y. Supp. 278.

Recount only before declaration of result.—Any duty which the statute provides that a board of canvassers shall, in the future, perform may be enforced by mandamus, but as there is no provision in the Election Law making it the duty of the canvassers to make recount after ballots have been placed in the ballot box and after the ballot box is locked, sealed and delivered to the custodian named in the statute, mandamus will not lie to compel such recount. *People ex rel. Brink v. Way*, (1904) 179 N. Y. 174, rev'g 62 App. Div. 83, 86 N. Y. Supp. 892.

The Election Law does not impose a duty nor does it confer authority upon election officers to reconvene on the day subsequent to the completion of the canvass made by them and recount the ballots cast at the election, and courts have no power, express or implied, to compel such recount by mandamus. *Matter of Hearst v. Woelper*, (1905) 183 N. Y. 274, rev'g 110 App. Div. 346, 96 N. Y. Supp. 341.

Entry on tally sheets of votes on submitted question.—The submission of a question at an election is not rendered void by the fact that no tally sheet as to the question submitted was filed from any of the election districts and that the tally sheets filed as to the general ticket contain no statement that any votes were cast upon such question. *People ex rel. Williams v. Board of Canvassers*, (1905) 105 App. Div. 197, 64 N. Y. Supp. 998, *aff'd* 183 N. Y. 538.

§ 336. Description of tally sheets.

Repealed by L. 1913, ch. 821, in effect Dec. 17, 1913.

§ 337. Forms of return and tally of votes cast for presidential electors.

1. *Return.* The official return of votes cast for presidential electors shall be in the following form:

OFFICIAL RETURN of votes cast for PRESIDENTIAL ELECTORS.

General Election.	County of.....
Assembly District.
November, 19Election District.

Number of ballots voted was:

Straight Ballots:

For [Republican] candidates.....	
For [Democratic] candidates.....	
[Print the names of the parties in the order in which they appear on the ballot.]	

Split Ballots	
Ballots wholly blank (no vote being cast thereon for any candidate)	
Void Ballots (no vote being counted thereon for any can- didate)	

Total	_____
-------------	-------

N. B.—This total must exactly equal the number of ballots voted.

tally sheets of votes on submitted question. — The submission of a question submitted was filed from any of the election districts, the tally sheets filed as to the general ticket contain no reference to any votes were cast upon such question. *People ex rel. Wilcox v. Board of Canvassers*, (1905) 105 App. Div. 197, 94 N. Y. Supp. 928, 938.

Description of tally sheets.

L. 1913, ch. 821, in effect Dec. 17, 1913.

of return and tally of votes cast for presidential electors.

The official return of votes cast for presidential electors shall be in the following form:

OFFICIAL RETURN of votes cast for PRESIDENTIAL ELECTORS.

County of.....	County of.....
....., 19Assembly District.
Election District.

The candidates named below received the number of votes set opposite their respective names:

NAME	NUMBER OF VOTES	NAME	NUMBER OF VOTES	NAME	NUMBER OF VOTES
[Republican] Electors		[Democratic] Electors		Candidates not on the ballot (Write in Names)	

[Print the groups, and also the names in the groups, in the order in which they appear on the Ballot.]

The number of blank, void and protested ballots was:

The number of ballots taken from the ballot box by the chairman as excess ballots and placed with the spoiled and mutilated ballots, was:

STATE OF NEW YORK, }
COUNTY OF } ss:

The undersigned, being duly sworn, do depose and say, each for himself, that the foregoing is a correct return of the ballots cast for presidential electors at the election held on the day of November, 19 , at the Election District in the Assembly District in the County of

Sworn to before me thisInspector.
.....day of November,Inspector.
19Inspector.
.....Inspector.
.....Poll Clerk.
Ballot Clerks.Poll Clerk.

N. B. — To two out of the three returns tally sheets must be annexed.

ELECTION LAW.

§ 338

1. The official tally of votes cast for presidential electors shall be in the following form: (See folder.)

Election Law, pt. of § 84.

by L. 1913, ch. 821, in effect Dec. 17, 1913. \

Forms of return and tally of votes for officers other than presidential electors.

n. The official return of votes for officers other than presidential electors shall be substantially in the following form, with appropriate changes to indicate the vote for governor of each county or independent body by whom a candidate therefor is elected:

VI. RETURN of Votes cast for [General Officers].
Election. County of.....
.....Assembly District.
.....19..... Election District.

Return of votes cast for office of [Governor].

Total Number of Ballots Voted:

Number of Ballots Invalid:

[Repeat the foregoing return for each office.]

The number of blank, void and protested ballots was:

The number of ballots which were taken from the ballot box by the chairman as excess ballots and placed with the spoiled and mutilated ballots, was:

STATE OF NEW YORK,)
COUNTY OF) ss:

The undersigned, being duly sworn, do depose and say, each for himself, that the foregoing is a correct return of the ballots cast for the above offices at the election held on the day of 19 , at the Election District in the Assembly District in the County of

Sworn to before me this	Inspector.
....day of November, 19	Inspector.
	Inspector.
	Inspector.
	Poll Clerk.
Ballot Clerk.	Poll Clerk.

N. B.—To two out of the three returns tally sheets must be annexed.

2. *Tally.* The official tallies of votes cast for officers other than presidential electors shall be in the following form with appropriate changes to indicate, where a candidate for governor was nominated by more than one political organization, the separate vote cast by each party or independent body for such candidate. (See folder.)

Derivation: Election Law, pt. of § 84.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

Consolidators' note.—Instead of including the form at length three separate times, to indicate that the return of the votes for all officers is to be made in the same way, the new section gives the form but once and adds below it the following instruction: ("Repeat the foregoing form for a return of the votes for each additional office.")

§ 339. Forms of return and tally of votes upon questions submitted.

1. *Return.* The return sheet of votes upon constitutional amendments or other questions submitted, including town propositions and town appropriations, shall be in all respects like the form provided by this section for the return of votes for officers except in the following particulars:

(a) At the top of the sheet shall be printed the words "Official return of votes cast on (constitutional amendments, questions submitted, town propositions, or town appropriations, as the case may be)."

(b) Below the heading, in place of the words, "Return of votes cast for office of," shall be printed the words, "Return of votes cast on question number (one) relating to (here give brief description)."

(c) The words "Number to be elected to said office," and "Total number of votes to be canvassed," shall be omitted.

(d) In place of the words "For the office of the candidates named below received the number of votes set opposite their respective names," shall be printed the words, "Upon question number (one) relating to (here give same description as above directed) votes were cast as follows:

Votes in favor.

Votes against

(e) The verification shall be so modified as to state that the return is of ballots cast on constitutional amendments and questions submitted.

2. *Tally.* The tally sheet for constitutional amendments or other questions submitted shall be in all respects like the form provided by this section for the tally of votes for officers except in the following particulars:

(a) At the top of the sheet shall be printed the words: "Official tally of votes cast on question number one" (or other brief designation).

(b) The matter at the top of the tally sheet, except the title, the blanks to be filled in for the purpose of specifying the date and place of election, and the words, "Total number of votes to be canvassed," shall be omitted.

(c) In place of the candidates' names in the left hand column shall be printed the words "For (or against, as the case may be) question No. (or other brief designation)."

(d) The lines of tally squares left on the form herewith printed for names of candidates not on the ballot shall be omitted.

(e) The fourth instruction for tallying shall be read as follows: "4. Tally once for each vote, whether counted for or against the question, or blank, or void."

We certify that the foregoing statement is correct.

Dated this day of November,

.

 Board of Inspectors.



§§ 340, 341 OFFICIAL AND SAMPLE BALLOTS, ETC.

173

Derivation: Election Law, pt. of § 84.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

Consolidators' note.—The requirement of the printing of the blanks in the form prescribed is made to conform to sections 337 and 338, the title to the form being supplied.

§ 340. Number of official ballots.

The number of official ballots of each kind to be provided for each polling place for each election to be held thereat, except a village election held at a different time from a general election, shall be one and one-fourth times as many ballots as near as may be as there were names of voters on the register of voters of such district for such election at the close of the final regular meeting for such registration. In cities of the first class the officer or board charged with the duty of furnishing official ballots shall furnish one and one-fourth times as many official ballots of each kind to be provided for such election as there are voters entitled to vote thereat, as nearly as can be estimated by such officer or board. The number of official ballots of each kind to be provided for each polling place for a town meeting held at any time or a village or city election held at a different time from a general election, shall be one and one-fourth times the number of persons who will be entitled to vote thereat, as nearly as can be estimated by the officer charged with the duty of providing such ballots.

Derivation: Election Law, § 85, as amended by L. 1900, ch. 381, § 4.

Amended by L. 1913, ch. 820, in effect Dec. 17, 1913.

Consolidators' note.—The provision for the number of ballots in districts where but two meetings are held can be and is omitted.

§ 341. Officers providing ballots and stationery.

The county clerk, in each of the counties of Oneida and Broome, the commissioner of elections in any county having one commissioner of elections, the board of elections in every other county except a county within the city of New York, and in any such county the board of elections of such city, shall provide the requisite number of official and sample ballots, cards of instruction, two poll-books, distance markers, two tally sheets of each kind, three return blanks of each kind, pens, pen-holders, red and black ink, pencils having black lead, blotting paper, sealing wax and such other articles of stationery as may be necessary for the proper conduct of the election and the canvass of the votes, for each election district in the county for each election to be held thereat, except that when town meetings, city or village elections and elections for school officers are not held at the same time as a general election, the clerk of such town, city or village, respectively, shall provide such official and sample ballots and stationery for such election or town meeting. If the town meeting is held on general

the top of the sheet shall be printed the words "Official votes cast on (constitutional amendments, questions submitted, or town propositions, or town appropriations, as the case may be)." and

below the heading, in place of the words, "Return of votes for the office of," shall be printed the words, "Return of votes cast on question number (one) relating to (here give description)."

The words "Number to be elected to said office," and "Number of votes to be canvassed," shall be omitted.

In place of the words "For the office of the candidates named below received the number of votes set opposite their respective names," shall be printed the words, "Upon question number (one) relating to (here give same description as above) votes were cast as follows:

For favor
Against

The verification shall be so modified as to state that the number of ballots cast on constitutional amendments and questions submitted.

9. The tally sheet for constitutional amendments or questions submitted shall be in all respects like the form provided by this section for the tally of votes for officers except in the following particulars:

At the top of the sheet shall be printed the words: "Official votes cast on question number one" (or other kind of question).



Derivation: Election Law, pt. of § 84.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

Consolidators' note.—The requirement of the printing of the blanks in the form prescribed is made to conform to sections 327 and 332, the title to the form being supplied.

§ 340. Number of official ballots.

The number of official ballots of each kind to be provided for each polling place for each election to be held thereat, except a village election held at a different time from a general election, shall be one and one-fourth times as many ballots as near as may be as there were names of voters on the register of voters of such district for such election at the close of the final regular meeting for such registration. In cities of the first class the officer or board charged with the duty of furnishing official ballots shall furnish one and one-fourth times as many official ballots of each kind to be provided for such election as there are voters entitled to vote thereat, as nearly as can be estimated by such officer or board. The number of official ballots of each kind to be provided for each polling place for a town meeting held at any time or a village or city election held at a different time from a general election, shall be one and one-fourth times the number of persons who will be entitled to vote thereat, as nearly as can be estimated by the officer charged with the duty of providing such ballots.

Derivation: Election Law, § 85, as amended by L. 1900, ch. 381, § 4.

Amended by L. 1913, ch. 820, in effect Dec. 17, 1913.

Consolidators' note.—The provision for the number of ballots in districts where but two meetings are held can be and is omitted.

§ 341. Officers providing ballots and stationery.

The county clerk, in each of the counties of Oneida and Broome, the commissioner of elections in any county having one commissioner of elections, the board of elections in every other county except a county within the city of New York, and in any such county the board of elections of such city, shall provide the requisite number of official and sample ballots, cards of instruction, two poll-books, distance markers, two tally sheets of each kind, three return blanks of each kind, pens, pen-holders, red and black ink, pencils having black lead, blotting paper, sealing wax and such other articles of stationery as may be necessary for the proper conduct of the election and the canvass of the votes, for each election district in the county for each election to be held thereat, except that when town meetings, city or village elections and elections for school officers are not held at the same time as a general election, the clerk of such town, city or village, respectively, shall provide such official and sample ballots and stationery for such election or town meeting. If the town meeting is held on general



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may ballots and sample ballots for town propositions and sample general ballots on which town officers to be elected shall be provided by the town clerk in the same form as at a town meeting held at any town meeting. The clerk shall also furnish return blanks for town propositions or questions, and for mail ballots for candidates for town offices at such an election. The cost of furnishing such ballots, sample ballots and return blanks shall be a town charge. And the board of elections of New York shall provide such articles for each city and county.

REVISIONS.—Election Law, pt. of § 86, as amended by L. 1897, ch. 641, § 5; L. 1901, ch. 95, § 18, and ch. 615, § 1; L. 1905, § 5, L. 1904, ch. 733, § 2; L. 1905, ch. 643, § 18, and by L. 1911, ch. 649; L. 1913, ch. 821; L. 1916, ch. 417, § 15.

REFERENCES.—As to duty of county clerk in printing ballots, see Election Law, § 331. As to errors and omissions in ballots, see Election Law, § 331, and note.

GENERAL ELECTION.—The provision requiring boards of elections for general elections except those at town meetings held at the same time as a general election, the exception has no application to a town meeting held at the same time as a general election, and ballots furnished for such elections are valid. Matter of Town of Bath (1916), 15 Misc. 2d 417, 15 Misc. 2d 417, 15 Misc. 2d 417, 15 Misc. 2d 417.

Public inspection of ballots.

The officer or board charged with the duty of providing ballots for any polling place, shall have sample ballots

§ 343. Distribution of ballots and stationery.

The board of elections of each county, except those counties which are wholly within the city of New York, shall deliver at its office to each town or city clerk in such county, except in New York city and in the city of Buffalo, on the Saturday before the election for which they are required, the official and sample ballots, cards of instruction and other stationery required to be provided for each polling place in such town or city for such election. It is hereby made the duty of each such town or city clerk to call at the office of such board of elections at such time and receive such ballots and stationery. In the cities of New York and Buffalo the board or officer required to provide such ballots and stationery shall cause them to be delivered to the board of inspectors of each election district at least one-half hour before the opening of the polls on each day of election. Each kind of official ballots shall be arranged in a package in the consecutive order of the numbers printed on the stubs thereof, beginning with number one. All official and sample ballots provided for such election shall be in separate sealed packages, clearly marked on the outside thereof with the number and kind of ballots contained therein and indorsed with the designation of the election district for which they were prepared. The instruction cards and other stationery provided for each election district shall also be inclosed in a sealed package or packages, with a label on the outside thereof showing the contents of each such package. Each such town and city clerk receiving such packages shall cause all such packages so received and marked for any election district to be delivered unopened and with the seals thereof unbroken to the inspectors of election of such election district one-half hour before the opening of the polls of such election therein. The inspectors of election receiving such packages shall give to such town or city clerk, or board, delivering such packages a receipt therefor specifying the number and kind of packages received by them, which receipt shall be filed in the office of such clerk or board. Town, city and village clerks required to provide the same for town meetings, city and village elections held at different times from a general election, shall in like manner, deliver to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, the official ballots, sample ballots, instruction cards and other stationery, required for such election or town meeting, respectively, in like sealed packages marked on the outside in like manner, and shall take and file receipts therefor in like manner in their respective offices.

Derivation: Election Law, § 87, as amended by L. 1897, ch. 379, § 19; L. 1905, ch. 643, § 19.

Amended by L. 1916, ch. 537, in effect May 15, 1916.

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ARTICLE 10.

CONDUCT OF ELECTIONS AND CANVASS OF VOTES.

Opening the polls.
Persons within the guard rail.
Watchers; challengers, electioneering.
General duties of inspectors.
General duties of ballot clerks.
General duties of poll clerks.
Delivery of ballots to voters.
Assistance to disabled or illiterate voters.
Preparation of ballots by voters.
Manner of voting.
When unofficial ballots may be voted.
Challenges.
Preliminary oath.
General oath and additional oaths.
Removal of persons challenged.
Time allowed employers to vote.
Canvass of votes; preparation for canvass.
Comparing poll books and registers; verifying number of votes.
Method of canvassing.
Objections to counting; disposal of ballots.
Tallying the tallies.
General provisions as to canvass.
Statement of canvass to be delivered to police.
Returns of canvass.
Preservation of ballots.
Proclamation of result.
Sealing statements.
Delivery and filing of papers relating to the election; provisions.
Delivery and filing of papers in the city of New York.
Additional requirements in the metropolitan elections.
Delivery and filing of papers in the county of Erie.
Provisions relating to the election of judges.

The inspectors shall thereupon open the sealed packages of instruction cards and cause them to be posted conspicuously, at least one, and if printed in different languages, at least one of each language, in each of the voting booths of such polling place, and at least three of each language in which they are printed in or about the polling place; shall open the sealed packages of official ballots and sample ballots, and place them in charge of the ballot clerks, and shall place the poll books in charge of the poll clerks, and shall cause to be placed at a distance of one hundred feet from the polling place the visible markers designated herein as "distance markers," to prohibit "loitering or electioneering" within such distance. They shall also, before any ballots are cast, see that the voting booths are supplied with pencils having black lead only, unlock the ballot boxes, see that they are empty, allow the watchers present to examine them, and shall lock them up again while empty in such manner that the watchers present and persons just outside the guard-rail can see that such boxes are empty when they are relocked.

After such boxes are so relocked they shall not be unlocked or opened until the closing of the polls of such election, and, except as authorized by law, no ballots or other matter shall be placed in them after they are so relocked and before the announcement of the result of such canvass and the signing of the original statement of canvass and the two certified copies thereof. The instruction cards and distance markers posted as provided by law shall not be taken down, torn or defaced during such election. The ballot clerks with the official and sample ballots, the inspectors with such boxes and register of voters, and the poll clerks with their poll books, shall be stationed as near each other as practicable within such inclosed space. One of the inspectors shall then make proclamation that the polls of the election are open, and of the time in the afternoon when the polls will be closed.

Derivation: Election Law, § 100.

Cross-References. — Election officers to take additional oath before opening polls. Election Law, § 357. Time of opening and closing polls. Election Law, § 291. Meeting of inspectors and poll clerks before opening of polls when voting machines are used. Election Law, § 407. Removal, mutilation or destruction of election supplies, poll lists or cards of instruction. Penal Law, § 758 (part 5, *post*). Removal of official ballots before close of polls. Penal Law, § 764 (part 5, *post*).

Forms. — For oath to be taken by election officers before opening of polls and for proclamation of opening the polls, see Forms (part 12, *post*).

§ 351. Persons within the guard-rail.

From the time of the opening of the polls until the announcement of the result of the canvass of the votes cast thereat, and the signing of the official returns of such canvass and the copies thereof, the boxes and all official ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except inspectors, poll clerks, ballot clerks, duly authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, and persons duly admitted for the purpose of voting; provided, however, that candidates for public office voted for at such polling place may be present at the canvass of the votes.

ber upon the stub of the ballot or set of ballots voted by him. The inspector shall forthwith upon detaching the stub from any official ballot deposit the same in the box provided for detached stubs.

Derivation: Election Law, § 103, pt. of subd. 1.

Cross-References. — Misdemeanors in relation to elections. Penal Law, § 764 (part 5, post). Misconduct of election officers. Penal Law, § 762 (part 5, post). Violation of Election Law by public officer. Penal Law, § 763 (part 5, post).

Inspectors of election have equal power one with another. People v. Van Slyck, 4 Cow. 297.

Inspectors of election are merely ministerial officers. — People *ex rel.* Sherwood v. State Board, (1891) 129 N. Y. 360; People v. Pease, (1863) 27 N. Y. 45; Goetcheus v. Matthewson, (1874) 61 N. Y. 420; People *ex rel.* Stapleton v. Bell, (1890) 119 N. Y. 175; People *ex rel.* Sherwood v. Board, 129 N. Y. 372; Matter of Hamilton, (1894) 80 Hun 511, 30 N. Y. Supp. 499; People v. Van Slyck, 4 Cow. 297; People *ex rel.* Borgia v. Doe, (1905) 109 App. Div. 670, 96 N. Y. Supp. 389.

§ 354. General duties of ballot clerks.

Ballot clerks shall fold and deliver the ballots to voters. Ballots shall be delivered in numerical order beginning with number one. When the ballots are in sets they shall only be delivered in sets. If a ballot is found to be defective or mutilated before it is delivered to the voter, its stub and the stubs of all other ballots in the set shall immediately be detached and placed in the box for stubs, and all the ballots of that set shall immediately be marked "canceled" and placed in the box for spoiled and mutilated ballots. If a voter returns a ballot as defective, mutilated, defaced, or wrongly marked, he shall also return all the other ballots of the set, if any, and the ballot clerks shall likewise remove their stubs, placing all the stubs in the box for stubs and all the ballots of the set in the box for spoiled or mutilated ballots, first marking the ballots "canceled." In each case the voter shall receive another ballot, or set of ballots, unless not entitled thereto under section three hundred and fifty-eight.

Upon each delivery of official ballots, the ballot clerks shall announce the voter's name and the number on the stub, and they shall make a similar announcement when any ballot is returned to them.

The ballot clerks shall keep a record of all ballots deposited in the box for spoiled and mutilated ballots.

Derivation: Election Law, § 103, subd. 2.

Amended by L. 1913, ch. 821. in effect Dec. 17, 1913.

Cross-References. — See note to preceding section.

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General duties of poll clerks.

Poll clerks shall keep a record of the persons voting or offering to vote, and shall tally the votes during the canvass thereof. A poll clerk at each polling place for which official books are provided shall have a poll-book for recording the names of electors voting or offering to vote thereat at the time of the election. The poll-book shall have eight columns headed respectively "Signature or statement number of elector," "Names of electors," "Residence of elector," "Signature or statement number of elector," "Signature of poll clerk," "Number on ballots delivered to elector," "Number on ballots voted," and "Remarks;" provided, however, that in the case of a poll-book for "Signature or statement number of elector," the column headed "Signature of poll clerk" may be omitted. The poll-book may be used in an election district wholly outside of the city of New York having five thousand inhabitants or more, may in the case of a poll-book for "Signature or statement number of elector" be omitted, and may in the case of a poll-book for "Signature or statement number of elector" be omitted. The poll-book shall be supplied to each delivery of an official ballot or ballot by the ballot clerk to an elector, each poll clerk shall enter in his poll-book in the appropriate column the name of the elector, in the successive order of the delivery of the ballot, the name of the elector in the alphabetical order of his surname, his residence by street and house number, a brief description of the ballot, and in the column headed "Signature or statement number of elector" shall have printed above each horizontal line the

be chosen by lot by the board previous to the opening of the polls on election day, and if said inspector so chosen shall absent himself during the day, the board of inspectors shall fill his place by choosing by lot from the inspectors present another of the inspectors other than the inspector who receives the ballots from the electors.

If on registration day, an elector whose registration was required to be personal had alleged his inability to so sign, then one of the poll clerks designated by the chairman of the board of inspectors shall read the same list of questions to the elector as were required to be read on registration days from a book to be provided for election day, and to be known as "identification statements for election day," and said poll clerk shall write the answers of the elector thereto. Each of these statements shall be numbered and a number corresponding to the number on the statement sheet shall be entered in the fourth column opposite the name of such elector answering the questions. The questions answered on registration day by the elector shall not be turned to or inspected until all the answers to said questions shall have been written down on election day by the poll clerk. Any person who shall prompt an elector in answering any questions provided in this subdivision shall be guilty of a felony.

At the bottom of each such list of questions shall be printed the following statement: "I certify that I have read to the above named elector each of the foregoing questions and that I have duly recorded his answers as above to each of said questions," and said poll clerk who has made the above record shall sign his name to said certificate and date the same, and note the time of day of making such record.

The comparison of the signature of an elector made on registration and election days, and a comparison of the answers made by an elector on registration and election days, shall be had in full view of the watchers, and the right to challenge electors shall exist until the ballot shall have been deposited in the ballot box. If the signature of the elector or the answers to the questions made by the elector do not correspond, then it shall be the privilege of the watchers and challengers to challenge and the duty of each inspector to challenge, unless some other authorized person shall challenge.

Each poll clerk in every election district of the state shall enter upon his poll-book in the appropriate column the printed number upon the stub of the ballots delivered to each elector, and the number on the ballots voted by him. If the ballot or set of ballots delivered to any elector shall be returned by him to the ballot clerk, and he shall obtain a new ballot or set of ballots,

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shall write opposite his name on the poll-book the printed number on the stub of such set of ballots. Each poll clerk shall make a mark in his poll-book opposite the name of each person challenged and taken either of the oaths prescribed, or who shall have received assistance in voting, and shall also enter upon the poll-book opposite each person the names of the election officers or persons who gave such assistance, and the cause or reason for the elector assisted. As each elector offers his ballot or set of ballots which he intends to vote to the inspector, the poll clerk shall report to the inspector whether the number entered in the poll-book kept by him as the number on the ballot or set of ballots delivered to such elector is the same as the number entered in the poll-book opposite the ballot or set of ballots so offered. As each poll clerk shall enter in the proper column of the poll-book the number on the detached stub of the ballots.

Subd. 1 is Election Law, § 103, subd. 3, as amended by L. 1910, ch. 428; L. 1911, ch. 649; L. 1913, ch. 821; L. 1915, ch. 5, 1916.

Subd. 2 is Election Law, § 103, subd. 4, as added by L. 1910, ch. 428; L. 1911, ch. 649; L. 1913, ch. 821; L. 1915, ch. 5, 1916.

—See note to Election Law, § 353.

—See note to Election Law, § 353.

At elector sign his name in inspector's register at the time of voting. (See provision of the Election Law made applicable to the inspector's register at the time of voting.)

guard-rail at the polling place of such election for the purpose of voting, in such order that there shall not at any time be within such guard-rail more than twice as many voters as there are voting booths thereat, in addition to the persons lawfully within such guard-rail for other purposes than voting. The voter shall enter within the guard-rail through the entrance provided, and shall forthwith proceed to the inspectors and give his name, and, if in a city or village of five thousand inhabitants or over, his residence by street and number, or if it have no street number, a brief description of the locality thereof, and if required by the inspectors shall state whether he is over or under twenty-one years of age. One of the inspectors shall thereupon announce the name and residence of the voter in a loud and distinct tone of voice. No persons shall be allowed to vote in any election district at any election where voters are required to be registered unless his name shall be upon the registration books of such election district.

The right of any person to vote whose name is on such register shall be subject to challenge. If such voter is entitled to vote thereat and is not challenged, or if challenged and the challenge be decided in his favor, one of the ballot clerks shall then deliver to him one official ballot or a set of official ballots, folded by such ballot clerk in the proper manner for voting, which is: First, by bringing the bottom of the ballot up to the perforated line, and second, by folding both sides to the center, or towards the center, in such manner that when folded the face of each ballot shall be concealed, and the printed number on the stub and the indorsement on the back of the ballot shall be visible, so that the stub can be removed without removing any other part of the ballot, and without exposing any part of the face of the ballot below the stub, and so that when folded the ballot shall not be more than four inches wide.

No person other than an inspector or ballot clerk shall deliver to any voter within such guard-rail any ballot, and they shall deliver only such ballots as the voter is legally entitled to vote, and also the sample ballot when the same is asked for.

Derivation: Election Law, § 104, subd. 1.

Cross-References. — Delivery of ballot by a person not a ballot clerk. Penal Law, § 764 (part 5, *post*). When delivery of ballots must cease. Election Law, § 291.

§ 357. Assistance to disabled or illiterate voters.

Any voter who shall, at the time of registration, have made oath of physical disability or illiteracy, as prescribed by section one hundred and sixty-four of this chapter; or who, being duly registered in an election district where personal registration by all voters is required by law, shall state under oath to the inspectors of election on the day of election that, by reason of some accident, the time and place of which he must specify, or of disease, the nature of which he must also specify, he has, since the day upon which he registered, lost the use of both hands, or become totally blind, or afflicted by such degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, or so crippled that he can not

Let no person assisting a voter shall not in-
- seek to persuade or induce any such voter to
- ket, or for any particular candidate, and shall
- memorandum or entry of any thing occurring w
- shall not, directly or indirectly, reveal to any
- of any candidate voted for by such voter, or w
- d, except they be called upon to testify in a ju
- violation of this chapter, and each election of
- of the polls for the election, shall make oath th
- manner request, or seek to persuade, or induce
- particular ticket or for any particular candidate
- rep or make any memorandum or entry of any
- the booth, and that he will not, directly o
- any person the name of any candidate vote
- ticket he has voted, or anything occurring

that the voter when challenged may take the 'general oath,' and if he persists in his claim to vote, the Court of Appeals has held that it is imperative on the inspectors to receive the vote and deposit the same in the ballot box. See *People v. Pease*, (1863) 27 N. Y. 53; *Goetcheus v. Matthewson et al.*, (1874) 61 N. Y. 420.

"The statutory provision cited is a new one, but the question suggested is one frequently asked and will necessarily arise before the inspectors of election on election day, and while the construction above indicated may not be entirely free from doubt, yet after the best consideration which I have been able to give the matter I am of the opinion that the statute will be complied with, if the voter so insists, by taking the oath provided.

"The voter must, however, see to it that this declaration is not false, in fact, for if it is he is liable to be prosecuted for perjury; and while we may admit that the inspectors would have no right to inquire into the truth or falsity of the voter's declaration, no such objection exists to the qualifications or authority of a grand jury to make this inquiry." Opinion of Atty.-Gen.

§ 358. Preparation of ballots by voters; intent of voters.

On receiving his ballot the voter shall forthwith and without leaving the inclosed space retire alone, unless he be one that is entitled to assistance in the preparation of his ballot, to one of the voting booths, and without undue delay unfold and mark his ballot as hereafter prescribed. No voter shall be allowed to occupy a booth already occupied by another, or to occupy a booth more than five minutes in case all the booths are in use and voters waiting to occupy the same.

It shall be unlawful to deface or tear an official ballot in any manner; or to erase any printed line, letter or word therefrom; or to erase any name or mark written thereon by a voter. If a voter wrongly mark, deface, or tear a ballot or one of a set of ballots, he may successively obtain others, one set at a time, not exceeding in all three sets, upon returning to the ballot clerks each set of ballots already received.

The voter shall mark his ballot with a pencil having black lead as follows and not otherwise:

1. To vote for any candidate on any ballot, except for an entire group of presidential electors by means of a single mark as hereinafter provided, he shall make a cross X mark in the voting square at the left of the candidate's name.

2. To vote for any candidate not on the ballot, he shall write the candidate's name on a line left blank in the appropriate place.

For an entire group of presidential electors, or for a party, he shall make a cross X mark in the column. If, on a ballot for presidential electors, he make such mark in the circle above a party column, or the name of a candidate in such column, or before the names of two or more candidates, without making a voting mark in any voting square, and without writing in any name, such marks shall be treated as surplusage and his vote to have been cast for all of the candidates in the party column below such circle. If, however, presidential electors shall be so marked in a party column, or more voting squares in the column under any voting square or squares in another column, and the name or names be also written in, the vote shall only be counted for the candidate named.

For presidential electors, the voter shall make a mark in the circle above a party column, and no voting square of the same column, and shall make a mark in the voting square before the name

5. To vote on any constitutional amendment or question submitted, he shall make a cross X mark in the appropriate voting square at the left of the question as printed on the ballot.

A cross X mark shall consist of any straight line crossing any other straight line, at any angle, within a circle or voting square. Any mark other than a cross X mark or any erasure of any kind shall make the whole ballot void; but no ballot shall be declared void because a cross X mark thereon is irregular in form. Any ballot which is defaced or torn by the voter shall be void. If a voter shall do any act extrinsic to the ballot itself, such as inclosing any paper or other article in the folded ballot, such ballot shall be void. If the elector marks more names than there are persons to be elected to an office, or if for any other reason it is impossible to determine the elector's choice of a candidate for an office to be filled, his vote shall not be counted for such office but shall be returned as a blank vote for such office. Where, in the case of a candidate for governor or member of assembly, the candidate is nominated by two or more political organizations, and the voter makes a cross X mark in two or more voting spaces or squares, his vote for such candidate shall be counted, but he shall not be recorded in the tally sheet or returns as voting with any particular party or independent body for such candidate.

Derivation: Election Law, § 105, as amended by L. 1898, ch. 335, § 6.

Amended by L. 1911, ch. 296; L. 1913, ch. 821; L. 1916, ch. 537, in effect May 15, 1916.

Consolidators' note.— Election Law, § 105, as amended by L. 1898, ch. 335. The voting mark printed X not X; in " if a voter deface or tear a ballot . . . or wrongly marks the same," " marks " made " mark ; " " voter " substituted and punctuation improved.

In its old form, Rule 7 has given rise to some unnecessary confusion, for voters have sometimes thought that the requirement that the mark should be " within a circle " required them to mark a " circle " around their voting mark. The occasional printing of the cross in parentheses, thus (X), has added to the confusion. Accordingly " within a circle " has been changed to " within a party circle " to make it perfectly clear that the party circle printed on the ballot is the " circle " referred to.

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es.—Misdemeanors by voters in preparing ballots. Penn
at). As to rules for interpreting intent of voter in m
Election Law, § 368, which should be carefully read in c
ation. Judicial investigation of ballots. Election Law,
illustrations showing how to mark ballots, see Forms (p

the use of ballots at elections in this State pursuant t
statutory authority outlined and discussed, per De Ang
urns v Porter (1917), 176 App. Div. 330, 163 N. Y. Sup
of the Election Law was to secure secrecy to the voter,
operative that he should strictly pursue the method pres
his designation of the person for whom he intends to
Vells v. Collin (1897), 19 App. Div. 487, 46 N. Y. Sup
750.

vote, secured to the citizen by the Constitution, must be
ener and subject to the regulations lawfully prescribed
spect to the time when and the method by which his
in order to render his will and intention effectual at th
comply with at least all the substantial requirements
rel Sherman v. Person (1892), 64 Hun, 327, 45 N. Y. S
app. 297, aff'd, 135 N. Y. 613, People ex rel. Nichols v.
2), 129 N. Y. 395, 401

oter. - Although the intention of a voter does not conti
ballot, for it may be void by reason of erasures or
tive of his intention, yet the court under the author
consider within narrow limits the intention of the vo
or pencil marks on a ballot. Thus the court may sa,

crosses, half crosses, excessive crosses and crosses superimposed upon numbers first written. *Matter of Garvin* (App. Div.), N. Y. L. J., June 9, 1915.

Mark for identification.—Under the Election Law as it existed in March, 1916 (and as it now stands), there is no such thing as a ballot marked by the voter for identification. The ballot is valid or void, to be judged by a definite test prescribed by the statute. *People ex rel. Karns v. Porter* (1917), 176 App. Div. 330, 163 N. Y. Supp. 103.

Marking of ballots by voters.—A voter of a split ticket must place his cross mark in the "voting space" before the name of his candidate. If he places the mark before the name, but without the "voting space," the ballot is void. *People ex rel. Wells v. Collins*, (1897) 19 App. Div. 457, 46 N. Y. Supp. 701, aff'd 154 N. Y. 750.

Marks apparently made by the voter in attempting to correct his own errors, as, after making the cross mark in the circle, endeavoring to erase it with a rubber or some sharp instrument or by striking the pencil through the mark, constitute an error or defacement rendering the ballot invalid. *People ex rel. Feeny v. Board of Canvassers*, (1898) 156 N. Y. 39, mod'f'g 23 App. Div. 201, 48 N. Y. Supp. 866; motion for rehearing denied 156 N. Y. 686.

Ballots having the cross mark placed in the voting space before the words "No Nomination" are invalid and cannot be counted. *People ex rel. Feeny v. Board of Canvassers*, (1898) 156 N. Y. 39, mod'f'g 23 App. Div. 201, 48 N. Y. Supp. 866; motion for rehearing denied 156 N. Y. 686.

Ballots upon which are written with pencil in the blank column names of candidates whose names were already printed upon the ballots for the office are invalid and cannot be counted. *People ex rel. Feeny v. Board of Canvassers*, (1898) 156 N. Y. 39, mod'f'g 23 App. Div. 201, 48 N. Y. Supp. 866; motion for rehearing denied 156 N. Y. 686.

A ballot bearing a mark made at the head of a ticket as if by a sharp instrument not a pencil is thereby vitiated and cannot be counted. *People ex rel. Feeny v. Board of Canvassers*, (1898) 156 N. Y. 39, mod'f'g 23 App. Div. 201, 48 N. Y. Supp. 866; motion for rehearing denied 156 N. Y. 686.

When there are two candidates to be elected to an office, a ballot is not vitiated because it contains voting marks opposite the names of two candidates for the office in different columns but in the same horizontal lines. *People ex rel. Feeny v. Board of Canvassers*, (1898) 156 N. Y. 39, mod'f'g 23 App. Div. 201, 48 N. Y. Supp. 866; motion for rehearing denied 156 N. Y. 686.

If by inspection it is apparent that any part of a line forming the cross mark passed outside the circle the marking is not "only within the circle" and violates the statute. *Matter of Houligan*, (1907) 55 Misc. 5, 106 N. Y. Supp. 205.

Where voters attempt to vote a split ticket, but the cross marks for individual candidates are not within the voting space, the ballots are void. *Matter of Houligan*, (1907) 55 Misc. 5, 106 N. Y. Supp. 205.

An erasure of the name of a candidate printed upon a ballot renders the ballot void. Where a mark somewhat like the letter "S" is made in one of the voting places in the blank column and attempt has been made to erase the mark, the ballot is void. *Matter of Houligan*, (1907) 55 Misc. 5, 106 N. Y. Supp. 205.

Where an elector does not write the name of a person whose name is not printed upon the ballot or for whom he desires to vote in the blank column provided for that purpose, but writes such name in the column headed "Independence League," the ballot is void. *Matter of Houligan*, (1907) 55 Misc. 5, 106 N. Y. Supp. 205.

Where a voter makes no mark on the face of the ballot but makes four cross marks on its back, the ballot is void. *Matter of Houligan*, (1907) 55 Misc. 5, 106 N. Y. Supp. 205.

Where but one ticket—a Republican—is nominated to be voted for at an annual town meeting and consequently the official ballot contains but two columns, one headed "Republican Ticket" and the other "Blank Column," ballots which have no marks of any kind, either in the circle at the head of the Republican column or in the voting space at the left of the names of the candidates in the Republican column, nor any names written in the blank column, cannot properly be counted in favor of the candidates whose names appear in the column headed "Republican Ticket." *People ex rel. Damon v. Feasenden*, (1898) 31 App. Div. 371, 52 N. Y. Supp. 324.

Purple lead cannot be used to make a cross mark. *People ex rel. Obert v. Bourke*, (1900) 30 Misc. 461, 63 N. Y. Supp. 906.

maintained by the court, and held
the with double lines in the voting space did not involve

In a single line instead of a cross in the voting space was
 be voting space in addition to the cross mark rendered the
 made of many lines, but not constituting a cross, rendered

Is an irregular figure, not a cross, in the voting space. Was
Is a data hot line in the voting space was told

to be rejected where a cross mark thereon has been entered,
see *Hager v. Day*, 6 ex rel. *Obert v. Bourke*, (1900), 20
801.

be counted where the cross mark placed in the circle at the end of the line is something more than a cross mark.
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nevertheless inevitable between the marks constituting the one and the other, even of regular, unless there is a manifest intention to

counted for a Republican candidate. *People ex rel. Pierce v. Parkhurst* (1898), 24 Misc. 442, 59 N. Y. Supp. 598.

In writing a name in the blank column on a ballot a cross-mark should not be used before that name. *Rept. of Atty.-Gen.* (1907), 555.

As to marking of ballots by voters, see also, cases cited in note to Election Law, section 368.

Ballots marked in more than one voting space before the name of a candidate for a given office who has been nominated by more than one party, are not void. *Rept. of Atty.-Gen.* (1914), Vol. 2, p. 370.

Where the proper cross mark has not been placed before the name of the candidate the ballot is void. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

A ballot containing a second cross near the name of a candidate which was not made by the voter, but caused by the heavy ink and incidental to the folding of the ballot, is not invalid. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

A cross in the space before the name of a candidate written in, which space had been "blacked out" because not required by statute, does not invalidate the ballot; it is simply an attempt on the part of the voter to indicate his choice. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Where the voting cross is placed in the space occupied by the emblem, the ballot is void. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Ballots not containing cross marks, but defective and incomplete marks that may serve for identification, are void. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

A ballot having a semi-circular mark over the cross, but not a part thereof, is void. *Matter of Brown v. Bd. of Canvassers, Queens Co.*, 170 App. Div. 476, 155 N. Y. Supp. 979; modified 216 N. Y. 732.

A ballot having two crosses in the same voting space, or one cross with an attempted erasure of the other, is void. *Matter of Brown v. Bd. of Canvassers, Queens Co.*, 170 App. Div. 476, 155 N. Y. Supp. 979; modified 216 N. Y. 732.

Flourishes at the upper end of both lines of the cross not constituting distinct lines, but made with the same impression of the pencil, constitute an irregular cross, and do not render the ballot void. *Matter of Brown v. Bd. of Canvassers, Queens Co.*, 170 App. Div. 476, 155 N. Y. Supp. 979; modified 216 N. Y. 732.

Erasures may render a ballot void. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Writing the name of a candidate in the space underneath the printed name of a candidate for the office, instead of in the blank space provided for such purpose, renders the ballot void. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732; *Matter of Brown v. Bd. of Canvassers, Queens Co.*, 170 App. Div. 476, 155 N. Y. Supp. 979; modified 216 N. Y. 732.

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of the ballot in the sealed envelope for the enrollment to the ballot which will have the effect to identify Keller (1915), 170 App. Div. 324, 155 N. Y. Supp. 5

its for constitutional delegates.—Subd 3 of this sec to the manner of marking the ballot for delegates to tion, and if the ballot contains a cross-mark in (umn and also a cross mark in one or more voting o ones of one or more delegates, or the voter writes in a ot should be counted for all the electors in the par ose names are opposite to the names so specially i en (1914), Vol. 2 p 371

er of voting.

ballot or ballots which a voter has received . rovided in the preceding section, he shall le with his ballot folded so as to conceal the fac ow the indorsement and facsimile of the si n the back thereof, and, keeping the same so at once to the inspector in charge of the bal r the same to such inspector. Such inspect ame of the voter and the printed number rial ballot so delivered to him in a loud and If such voter be entitled then and there to v

hundred and forty-five and three hundred and sixty of this chapter, and none but ballots provided in accordance with the provisions of this chapter shall be counted. No official ballot folded shall be unfolded outside the voting booth. No person to whom any official ballot shall be delivered shall leave the space within the guard-rail until after he shall have delivered back all such ballots received by him either to the inspectors or to the ballot clerks, and a violation of this provision is a misdemeanor.

When a person shall have received an official ballot from the ballot clerks or inspectors, as hereinbefore provided, he shall be deemed to have commenced the act of voting, and if, after receiving such official ballot, he shall leave the space inclosed by the guard-rail before the deposit of his ballot in the ballot box, as hereinbefore provided, he shall not be entitled to pass again within the guard-rail for the purpose of voting, or to receive any further ballots.

Derivation: Election Law, § 106.

Cross-references.— Showing ballot so as to reveal its contents. Penal Law, § 764 (part 5, post). Person other than inspector receiving ballot. Penal Law, § 764 (part 5, post). Failure to return unvoted ballots. Penal Law, § 764 (part 5, post). Illegal voting generally. Penal Law, §§ 764, 765 (part 5, post).

An elector must vote all the ballots that he wishes and is able to vote at one time.— He cannot present himself more than once at the polls for the purpose of voting, and when he is reached in his turn he must once and for all exercise his right of suffrage at that election. *Simpson v. Brown*, (1888) 18 N. Y. St. Rep. 781, 2 N. Y. Supp. 571.

What ballots counted.— The requirement that “none but ballots provided in accordance with the provisions of the Election Law shall be counted” is to prevent the use of any other than official ballots, except only in the cases provided for in sections 89 and 107 (now §§ 345 and 360), and not to condemn as invalid official ballots which have been furnished to the electors by public officers charged with that duty for some oversight or error on their part. *People ex rel. Williams v. Board of Canvassers*, (1905) 105 App. Div. 197, 94 N. Y. Supp. 996, aff’d 183 N. Y. 538.

Ballots placed within the envelope for the enrollment blank, the envelope being sealed, are void upon the ground that they were never voted. *Pro. ex rel. Brown v. Keller* (1915). 170 App. Div. 324, 155 N. Y. Supp. 976, aff’d 216 N. Y. 741.

Unofficial ballots at village election.— The inspectors of an election at a village election cannot issue a poll or count unofficial ballots. If they do so mandamus will issue to compel them to reconvene, return the unofficial ballots, correct the statement of the results of the canvass and make a proper certificate of the result. *People ex rel. March v. Beam*, (1907) 117 App. Div. 374, 103 N. Y. Supp. 818, mod’f’d 188 N. Y. 266.

complete act of voting.—A voter who has received his ballot during the hour may complete the act of voting. Reports (1894) 313, (1893) 144. See, also, case cited in 291.

unofficial ballots may be voted.

In case, the official ballots shall not be provided at any polling place, upon the opening of the polls thereat, or if the supply of official ballots is exhausted before the polls are closed, unofficial ballots, prepared as nearly as practicable in the form of the official ballots used.

Election Law, § 107.

As to provisions for unofficial ballots, see Election Law, § 107.

challenges.

A ballot may be challenged either when he applies to the clerk for official ballots, or when he offers to an inspector to vote, or previously by notice to the clerk by any elector. It shall be the duty of the clerk to challenge every person offering to vote who is not duly qualified as an elector.

recorded thereto upon the copy of said challenge affidavit, and shall carefully compare the description of the person challenged at the time of registration recorded upon the copy of the challenge affidavit with that of the applicant. If there shall be any material difference or conflict between the answers given by the applicant and the answers recorded upon the copy of the challenge affidavit to the questions printed thereon, or in the description of the person challenged and the applicant, or if the applicant shall refuse to answer any question put to him, or shall refuse to make such oath, his vote shall not be received and the facts thereof shall be recorded in each such case in the challenge record provided for in section three hundred and sixty-four.

Derivation: Election Law, § 108, pt. of subd. 1, as amended by L. 1901, ch. 544, § 2.

Amended by L. 1910, ch. 428; L. 1911, ch. 649; L. 1916, ch. 537, in effect May 13, 1916.

Voters taking oath entitled to vote.—"Voters answering the questions and taking the oath prescribed are entitled to vote." Opinion of Attorney-General.

Voters must take oath.—"A person whose right to vote is challenged on election day must take the oath required by law, notwithstanding any oath he may have taken to procure the registration of his name." Opinion of Attorney-General. . .

Inspectors of election cannot refuse vote of qualified voter, though his name has already been voted on; and mandamus lies to compel reception of vote. His vote may be challenged and the general oath must then be taken before receiving his vote. *People ex rel. Borgia v. Doe*, (1905) 109 App. Div. 670, 96 N. Y. Supp. 389.

Inspectors of election have no right to refuse to allow a duly qualified and registered elector to vote, solely because some other person has previously voted on his name. *People ex rel. Borgia v. Doe*, (1905) 109 App. Div. 670, 96 N. Y. Supp. 389.

One who offers his vote is legally presumed to be entitled to vote until some facts appear which would raise a contrary presumption. But where it appears by prima facie evidence that a person has never been naturalized, the burden of proving his citizenship is upon the voter. *People v. Pease*, (1863) 27 N. Y. 45.

A deserter from the U. S. military service who has taken the preliminary oath upon being challenged cannot be deprived of his vote unless a duly authenticated record of his conviction of the offense is presented to the board. *Goetcheus v. Matthewson*, (1874) 61 N. Y. 420. See, also, Report of Atty.-Genl., (1894) 343.

Inspectors of election act only ministerially in receiving the vote of electors, and cannot refuse to accept a vote of an elector who takes the required oaths. *People v. Pease*, (1863) 27 N. Y. 45; *Goetcheus v. Matthewson*, (1874) 61 N. Y. 420; *People ex rel. Stapleton v. Bell*, (1890) 119 N. Y. 175; *People ex rel. Sherwood v. Board of Canvassers*, (1891) 129 N. Y. 372; *Matter of Hamilton*, (1891) 80 Hun, 511, 30 N. Y. Supp. 499; *People ex rel. Borgia v. Doe*, (1905) 109 App. Div. 670, 96 N. Y. Supp. 389; *People v. Hochstim*, (1901) 36 Misc. 562, 73 N. Y. Supp. 626, rev'd 76 App. Div. 25, 78 N. Y. Supp. 628.

The decision by a majority of the board of inspectors in his favor is not essential to the reception of the vote of a challenged voter. *People ex rel. Stapleton v. Bell*, (1890) 119 N. Y. 175.

Election officers are liable in damages for asking questions not tending to test the qualifications to vote of a challenged voter and for rejecting his vote upon his refusal to answer such questions. *Goetcheus v. Matthewson*, (1874) 61 N. Y. 420.

Mandamus is proper to compel inspectors to take the vote of a challenged elector who has answered the proper questions and taken the required oaths. But mandamus will not be granted if it appear indisputably upon the application that the elector is not a qualified voter. *People v. Pease*, (1863) 27 N. Y. 45; *Goetcheus v. Matthewson*, (1874) 61 N. Y. 420; *People ex rel. Stapleton v. Bell*, (1890) 119 N. Y. 175; *People ex rel. Sherwood v. Board of Canvassers*, (1891) 129 N. Y. 380; *People ex rel. Borgia v. Doe*, (1905) 109 App. Div. 670, 96 N. Y. Supp. 389.

The case of *People ex rel. Lower v. Donovan*, (1892) 63 Hun, 512, 18 N. Y. Supp. 501, holding that a mandamus issued upon election day compelling inspectors to accept a vote is void elsewhere than in the first judicial district,

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applicable as the statute forbidding courts to sit upon

primary oath.

erson other than those persons heretofore provided for at any election shall be challenged in respect of his vote thereat, one of the inspectors shall take the following preliminary oath: "You do swear (or affirm) fully and truly answer all such questions as touching your place of residence and qualifi-

elector or one of them shall then question the relation to his name; his place of residence at that election district; his then place of residence, whether he be a native or naturalized citizen; when, where, and in what court, or before whom naturalized; whether he came into the election district of voting at that election; how long he continued in the election district; and all other matters which bear on his qualifications as a resident of the election district, or his right to vote at such election at such place. In addition to the foregoing provisions, the inspectors shall ask the person challenged the same questions asked of him when he registered. A challenge may be made by any duly appointed watcher

any such vote, and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election."

If the person so offering to vote shall be challenged on the ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors:

"You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen."

If any person shall refuse to take either oath so tendered his vote shall be rejected, but if he shall take the oath or oaths tendered him, his vote shall be accepted.

Derivation: Election Law, § 108, subd. 2.

§ 364. Record of persons challenged.

1. The inspectors of election shall keep a minute of their proceedings in respect to the challenging and administering oaths to persons offering to vote, in which shall be entered by one of them the name of every person who shall be challenged or take either of such oaths, specifying in each case whether the preliminary oath or the general oath, or both, were taken. At the close of the election, the inspectors shall add to such minutes a certificate to the effect that the same are all such minutes as to all persons challenged at such election in such district.

2. In cities and villages having a population of five thousand or more, in addition to the foregoing record, the chairman of each board of inspectors shall, immediately after any election or primary, return to every public officer who has filed with him or a member of his board a list of voters to be challenged, such challenge list with a written statement opposite each name, giving the reason, if the name was voted on, why the board permitted any person to vote thereon, or, if some person applied to vote thereon and was challenged and did not vote, the words "challenged and did not vote;" or if no person applied to vote on such name, the words "no application." Before making such return such chairman shall sign his name at the foot of each page of such challenge list.

Derivation: Election Law, § 108, subd. 3.

Amended by L. 1915, ch. 678; L. 1916, ch. 537, in effect May 15, 1916.

§ 365. Time allowed employees to vote.

Any person entitled to vote at a general election held within this state, shall on the day of such election be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such voter shall notify his employer before the day of such election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employees of municipalities.

Derivation: Election Law, § 109.

Cross-References. — Refusal to permit employees to attend. Penal Law, § 759 (part 5, post). Intimidation of employees. Penal Law, § 772 (part 5, post).

§ 366. Canvass of votes; preparation for canvass.

1. Place and time of canvass. As soon as the polls of an election are closed, the inspectors of election thereat shall publicly canvass and ascertain the votes, and not adjourn or postpone the canvass until it shall be fully completed.

The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for

persons, during the canvass, to close or cause to be closed the room in which such canvass is conducted in such manner as to prevent ingress or egress thereby.

At the close of the polls the ballot clerks shall make and sign a return which shall account for all the official ballots in the election district in which they are serving; they shall enter the number of each kind of unused ballots, and enter it in the return. They shall then open the box for ballots canceled before delivered to voters, separate them into their several kinds, and enter the number of each kind upon their return. They shall also make the additions and subtractions called for by the returns.

In making their returns as aforesaid, the ballot clerks shall use the forms supplied to them with the ballots, and they shall fill in all the blank spaces thereon the appropriate names, and follow to the directions contained in article nine of this chapter in the forms.

Each kind of ballot and each kind of stub shall immediately after the close of the polls be securely tied in a separate package, and the packages shall be sealed, and returned to the box from which it was taken. The boxes shall be securely locked and sealed. The ballot clerks shall also place the unused ballots in a sealed package. They shall then sign a return before one of the inspectors and shall deliver the packages, ballots and stubs, together with the keys of the boxes, to the board of inspectors. The ballots so sealed and returned shall be kept and preserved as ballot boxes are hereinafter required to be kept and preserved.

Immediately upon the close of the polls the poll clerks shall

clerks have delivered their returns to the chairman of the board, and not before, by counting the ballots found in the ballot boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the number of ballots found in each box with the number shown by the poll books and the ballot clerks' return to have been deposited therein.

If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess and, without unfolding them, forthwith inclose them in an envelope which he shall then and there seal and indorse "excess ballots from the box for ballots for (presidential electors, or general officers, et cetera, as the case may be)," signing his name thereto, and such envelope with the excess ballots therein shall be placed in the box for defective or spoiled ballots.

If two or more ballots shall be found in the ballot box so folded together as to present the appearance of a single ballot, and if the whole number of ballots in such ballot box exceeds the whole number of ballots shown by the poll books and ballot clerks' return to have been deposited therein, and not otherwise, they, or enough of them to reduce the ballots to the proper number, selection to be made without examination of any voting mark thereon, shall similarly be inclosed, sealed, indorsed and placed with the spoiled ballots.

If, however, there lawfully be more than one ballot box for the reception of ballots voted at the polling place, no ballot found in the wrong ballot box shall for that reason be rejected, but shall be placed in its proper box by the inspectors upon the count of the ballots before the canvass, and counted in the same manner as if found in the proper ballot box, if such ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown by the poll books and ballot clerks' returns to have been deposited in the proper box.

No ballot that has not the official indorsement shall be counted, except such as are voted in accordance with the provisions of this chapter relating to unofficial ballots.

Derivation: Election Law, § 110, pt. of subd. 1, as amended by L. 1898, ch. 335, § 7.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

The indorsement upon the official ballot is an essential part of the machinery of elections, by means of which the secrecy of voting is to be secured and enforced. Where ballots were cast containing an incorrect indorsement they were rejected lawfully. *People ex rel. Nichols v. Board of Canvassers*, (1892) 129 N. Y. 401.

(It should be noted, however, that the ballots referred to in the above case were prepared under what was known as the Ballot Reform Law, which provided that each political party should have a separate ballot for its own use, and, therefore, if the indorsement upon the back of one set of ballots was different from the indorsement upon the others, the ballot would reveal, when voted, how, or for whom, the elector cast his ballot. In the present law where there is but one ballot for all parties, is the indorsement necessarily of so great importance?)

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Legal endorsement is one of the essential features of a ballot not legally endorsed cannot be received or counted. *People v. Person*, (1893) 64 Hun 327, 45 N. Y. St. Rep. 339, 135 N. Y. 613.

of canvassing.

Canvassing ballots generally. Except as hereinafter provided, the method of canvassing ballots shall be as follows:

Each member of the board of inspectors shall personally unfold a ballot to be canvassed in such a manner that its face shall thereon shall be wholly concealed, and he shall place the ballot and with their faces down, in one pile. He shall then, in order, turn it face up, and announce in a loud voice the vote registered on the first section or that the section is blank, as the case may be. He shall then place it in a new pile. When he has announced the results of all the ballots of the kind then to be canvassed, tallies made as hereinafter provided are proved to be correct, provided for in article thirteen shall be filled out and before the chairman shall proceed to canvass in like manner the sections remaining to be canvassed, completing the canvass in the same order, and thus he shall proceed until all the ballots are counted.

When announced each poll clerk shall immediately tally the upward stroke from right to left upon the official tally sheet for purpose, also carefully tallying one for each blank ballot.

the number of blanks, if any, upon the section, and each poll clerk shall make as many tallies for each void ballot as there are candidates thereon to be elected to the office in question, and one tally for each blank.

3. *Canvassing presidential ballots.* The straight ballots, that is, all valid ballots on which all the candidates in any party group are voted for, shall be placed in piles, like with like, and the split ballots, that is, all valid ballots marked in one or more of the individual voting squares or with names written thereon, shall be placed in one pile, and all void ballots and wholly blank ballots shall be likewise placed in separate piles. Each of the piles shall then be counted and the result clearly announced, and the number of straight votes for each candidate shall be entered in gross opposite his name on a tally sheet by each poll clerk, and the number of split, void and wholly blank ballots shall be similarly entered in their appropriate places. The chairman shall then take the split ballots and they shall be canvassed, announced and tallied in the manner above provided for canvassing ballots when more than one candidate is to be elected to the same office.

Derivation: Election Law, § 110, subd. 2, as amended by L. 1898, ch. 335, § 7; L. 1901, ch. 654, § 5.

Amended by L. 1911, chs. 296 and 649; L. 1913, ch. 821, and L. 1914, ch. 244, in effect Apr. 8, 1914.

Cross-References. — See Election Law, §§ 358 and 369, and cases cited in notes thereunder.

The purpose of the Election Law was to secure secrecy to the voter, and to that end it is imperative that he should strictly pursue the method prescribed by the act for his designation of the person for whom he intends to vote. *People ex rel. Wells v. Collin*, (1897) 19 App. Div. 457, 46 N. Y. Supp. 701, aff'd 154 N. Y. 750.

The very purpose of voting is that the ballot may show the voter's choice, and when he names more than the limited number of candidates to be voted for, it is impossible to determine which of the number he prefers. *People v. Ames*, (1860) 19 How. Pr. 551; *People v. Loomis*, (1832) 8 Wend. 396; *People v. Seaman*, (1848) 5 Den. 409.

Irregularity and ambiguity in ballot. — If it is possible to determine the intention of the elector his ballot is to be counted as he intended. *In re "Jerome Ballots,"* 48 Misc. 441, 96 N. Y. Supp. 122.

These rules have no reference to false or imperfect markings, but have reference only to ballots upon which the markings comply with the statutory requirements, but as to which there is confusion as to the particular candidates for which the voters intended to vote. *Matter of Houligan*, (1907) 55 Misc. 7, 106 N. Y. Supp. 205.

Ballots whose marks for voting do not substantially comply with the Election Law are void and must be rejected by the inspectors, and no question of the voters intention is involved. *Matter of Houligan*, (1907) 55 Misc. 5, 106 N. Y. Supp. 205.

Void ballots — ballots not conforming to the provisions of a statute intended for the purpose of securing secrecy, and which reveal the contents or render them capable of subsequent identification, are void by force of prohibition in the statute against revealing and counting them. *Commonwealth v. Woelper*, 3 S. & R. 29; *West v. Ross*, 55 Mo. 350; *Oglesby v. Sigman*, 56 Misc. 502; *State v. McKinnon*, 8 Oreg. 493; *Reynolds v. Snow*, 67 Cal. 497; *Talcott v. Philbrick*, 59 Conn. 472; *Fields v. Osborne*, 21 Atl. Rep. 1070; *In re Vote Marks*, id. 992; *Ledbetter v. Hall*, 62 Mo. 422; *Perkins v. Carraway*, 59 Miss. 222; *Steele v. Calhoun*, 61 Miss. 556.

Irregularity and ambiguity of ballot. — Review by court of marks on ballot as showing intent to evade or violate the law. *Matter of Hearst*, (1905) 48 Misc. 453, 96 N. Y. Supp. 119, mod'f'd 110 App. Div. 346, 96 N. Y. Supp. 341, which was reversed 183 N. Y. 274.

A ballot marked in the circle at the head of one ticket and also in the circle at the head of the ticket bearing Mr. Jerome's name alone as district attorney nominee, held not a blank ballot as to district attorney, but should be counted for Mr. Jerome. Such marks held not intended as distinguishing marks. *In re "Jerome Ballots,"* (1905) 48 Misc. 441, 96 N. Y. Supp. 122.

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cancelations, etc., invalidate ballots. — Marks attempted to correct his errors, such as after making a circle or in the voting space endeavoring to erase them with a sharp instrument or in other cases by striking them so as to erase them, render the ballot invalid and not lawfully counted. *People ex rel. Feeney v. Bd. Canvassers*, (1899) 156 N. Y. 30, 23 App. Div. 201, 48 N. Y. Supp. 866, motion for rehearing denied 156 N. Y. 680.

Ballot. — Where two ballots were discovered to be torn from the bottom thereof stubs containing the names of candidates, and the stubs so torn off were found deposited in a box for detached stubs, the court, assuming that the mutilation was an inadvertent act of the inspectors, held that the ballots were counted. *Thacher v. Lent*, (1902) 71 App. Div. 483, 100 N. Y. 680.

Ballot furnished by the State is not a marked ballot where there is any irregularity in making it up or printing it. *People ex rel. Feeney v. Bd. Canvassers*, (1899) 156 N. Y. 30, 23 App. Div. 201, 48 N. Y. Supp. 866, motion for rehearing denied 156 N. Y. 680.

Ballot made as if by some sharp instrument — Where a ballot is made as if by some sharp instrument, it is void and should not be counted. *People ex rel. Feeney v. Bd. Canvassers*, (1899) 156 N. Y. 30, 23 App. Div. 201, 48 N. Y. Supp. 866, motion for rehearing denied 156 N. Y. 680.

Mark in voting space before words "no nomination" — Where a mark is made in the voting space before the words "no nomination" are printed, the ballot is void and should not be counted. *People ex rel. Feeney v. Bd. Canvassers*, (1899) 156 N. Y. 30, 23 App. Div. 201, 48 N. Y. Supp. 866, motion for rehearing denied 156 N. Y. 680.

Name of candidate for office already printed — Where the name of a candidate for office is already printed on the ballot, the name of the same office vitiated the ballot under the plain language of the law. *People ex rel. Feeney v. Bd. Canvassers*, (1899) 156 N. Y. 30, 23 App. Div. 201, 48 N. Y. Supp. 866, motion for rehearing denied 156 N. Y. 680.

motion for rehearing denied 156 N. Y. 686; *Matter of Fallon* (1909), 135 App. Div. 194, 119 N. Y. Supp. 1061, mod'f'd 197 N. Y. 336.

Where a voter has placed a cross mark in the circles of two tickets which have candidates for State and county offices, but only one has candidates for city offices, the ballot should be counted for the city ticket. *Matter of Houligan* (1907), 55 Misc. 5, 106 N. Y. Supp. 205.

A ballot having crosses in the circle at the head of two party columns but having also a cross in front of the name of a candidate in one of those columns, should be counted as a vote for said candidate. *People ex rel. Moran v. Sniffin* (1908), 123 App. Div. 730, 108 N. Y. Supp. 243.

A ballot marked at the head of two party columns should not be rejected as marked for identification because there are also crosses in front of the names of two Republican candidates and also a cross in front of the name of one Democrat, who was a candidate for the same office. *People ex rel. Moran v. Sniffin* (1908), 123 App. Div. 730, 108 N. Y. Supp. 243.

A ballot marked with a cross in the circle at the head of a party column and having the cross in front of the name of a candidate in another party column should be counted for the latter candidate. *People ex rel. Moran v. Sniffin* (1908), 123 App. Div. 730, 108 N. Y. Supp. 243.

Where the voter has placed a cross mark in the circles of five different tickets which have a full set of candidates for State and county officers, and two of such tickets have a full set of candidates for city offices, the ballot should be rejected. *Matter of Houligan* (1907), 55 Misc. 5, 106 N. Y. Supp. 205.

A ballot containing in a circle at the head of one column a number of criss cross pencil marks, consisting of three perpendicular lines and three or four horizontal lines crossing the perpendicular lines, is void under the provisions of this section providing that "a void ballot is a ballot upon which there shall be found any mark other than a single (X) mark made for the purpose of voting," etc. *Thacher v. Lent* (1902), 71 App. Div. 483, 75 N. Y. Supp. 732.

An imperfect cross mark in the circle at the head of the party column will not vitiate the vote. *People ex rel. Boutel v. Morgan* (1897), 20 App. Div. 48, 46 N. Y. Supp. 898.

In construing sections 358 and 368, such a construction of the word "single" and of the provision "one straight line crossing another straight line" should be adopted, that a tremulous line drawn by an infirm elector, or an irregular or curved line drawn by an elector with poor eyesight or with muscles untrained to the use of a pencil, or any single line but once crossing another single line in such a way as to substantially comply with the statute, should not be held void. *Matter of Fallon* (1910), 197 N. Y. 336, mod'f'g 135 App. Div. 195, 119 N. Y. Supp. 1061.

A ballot which bears pencil marks other than crosses placed in the voting spaces is void and should not be counted. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

A cross placed outside the circle of voting spaces on a ballot renders it void. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

name of a candidate appears in two or more columns a vote is counted for him, although the voter placed a cross in the circle at each of the columns. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

A vote should be counted for a candidate although crosses are placed at the head of more than one column if the name of the candidate in the columns marked with the exception of one column was named. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

As to whether the court is empowered to declare a ballot void on account of certain peculiarities marked in the voting spaces, the marks are necessary peculiarities for the purpose of identification. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

A literal reading of the Election Law would seem to confine the court's determination as to whether protested ballots were marked in violation of the law, the court is not confined to a determination as to whether the ballot was well taken upon the ground that the ballot was marked for a candidate, but may and should determine whether the ballot is valid. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

As to whether crosses made by a voter in the voting spaces of a ballot are certain peculiarities for the purpose of identification, the law should not be strictly construed. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

Where there is no extraneous evidence showing that such peculiarities were made for the purpose of identification, a ballot should be counted, although the lines of the cross were wavering and irregular or the pencil was drawn forth several times so that the lines of the cross were double. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

Cross marks opposite names of two candidates for same office in different columns but not on same horizontal line do not vitiate ballot. The elector should be regarded as having exercised his right to select which one of the two candidates in the different columns he cast his vote for. *People ex rel. Feeny v. Board of Canvassers* (1898), 156 N. Y. 39, mod'f'g 23 App. Div. 201, 48 N. Y. Supp. 866, motion for rehearing denied 156 N. Y. 686.

A ballot with crosses opposite two candidates for the same office is ineffective only as to that office. *People ex rel. Brown v. Bd. of Suprs., Nassau Co.* (1915), 170 App. Div. 358, 156 N. Y. Supp. 214; modified 216 N. Y. 732; *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. Supp. 732; *Matter of Brown v. Bd. of Canvassers, Queens Co.* (1915), 170 App. Div. 476, 155 N. Y. Supp. 979; modified 216 N. Y. 732.

A ballot which though indorsed "marked for identification," has a mark opposite the name of the candidate so as to make it void, should not be counted. *People ex rel. Brown v. Bd. of Suprs., Nassau Co.* (1915), 170 App. Div. 358, 156 N. Y. Supp. 214; modified 216 N. Y. 732.

Return inconsistent with indorsements. — Where the written return of election officers giving the number of void ballots is inconsistent with the indorsements upon the ballots themselves, the particular indorsements should prevail over the written return. *Matter of Brown v. Bd. of Canvassers, Queens Co.*, 170 App. Div. 476, 155 N. Y. Supp. 979; modified 216 N. Y. 732.

Where there is no indorsement on a ballot and it is not clear or apparent whether or not it was originally counted, it cannot be considered on a recount. *People ex rel. Brown v. Bd. of Suprs., Nassau Co.* (1915), 170 App. Div. 358, 156 N. Y. Supp. 214; modified 216 N. Y. 732.

Ballots indorsed under an auxiliary writ of mandamus, cannot be deducted, where it does not appear that there were marks or indorsements made on election night that would serve to identify them so that inspectors could subsequently indorse them. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Ballots on which there are no certain original indorsements cannot be deducted from the count, although they have been indorsed under an auxiliary writ of mandamus as void for one office and counted for all other offices. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Where a ballot has been indorsed "spoiled" at the original canvass, the inspectors cannot be compelled by a writ of mandamus to indorse it "wholly void." Such a ballot should not be added to the vote of a candidate, although valid as to him. *People ex rel. Brown v. Bd. of Suprs., Nassau Co.* (1915), 170 App. Div. 358, 156 N. Y. Supp. 214; modified 216 N. Y. 732.

Unidentified ballots. — Where a return shows twenty-four void ballots and the envelope six ballots, and there were eighteen ballots unaccounted for, and the package taken from the box of ballots by the inspectors contains twenty-nine ballots, of which nine are blank, and it cannot be determined which of the other twenty ballots are the missing eighteen void ballots, none of the ballots should be counted. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Ballots should not be counted for another candidate which are void because of improper marks in voting space. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Attempting to vote for three candidates for same office by placing voting marks opposite their names when only two candidates are to be elected does not wholly destroy the ballot or require the inspector to throw it out, but only to exclude the vote as to the particular office affected, it being impossible to determine the elector's choice for the office. *People ex rel. Feeny v. Board of Canvassers* (1898), 156 N. Y. 39, mod'f'g 23 App. Div. 201, 48 N. Y. Supp. 866, motion for rehearing denied 156 N. Y. 686.

If an elector in voting a split ticket does not place his mark in the voting space and opposite the name of the candidate voted for, according to the strict letter of the election code, his ballot cannot be counted. *People ex rel. Wells v. Collin* (1897), 19 App. Div. 457, 46 N. Y. Supp. 701, aff'd 154 N. Y.

name of a candidate appears in two or more columns a vote is counted for him, although the voter placed a cross in the circle at the head of each of the columns. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

A vote should be counted for a candidate although crosses are placed at the head of more than one column if the name of the candidate appears in the columns marked with the exception of one column in which no candidate for that office was named. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

As to whether the court is empowered to declare a ballot void on account of irregularities, although legally marked in the voting spaces, the marks being necessary peculiarities for the purpose of identification. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

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In determining whether crosses made by a voter in the voting spaces of a ballot are sufficient for the purpose of identification, the law should not be strictly construed. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

If there is no extraneous evidence showing that such peculiarities were made for the purpose of identification, a ballot should be counted, although the crosses were wavering and irregular or the pencil was used so that the lines of the cross were double. *Matter of Fallon* (1909), 135 App. Div. 195, 119 N. Y. Supp. 1061.

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A ballot which though indorsed "marked for identification," has a mark opposite the name of the candidate so as to make it void, should not be counted. *People ex rel. Brown v. Bd. of Suprs., Nassau Co.* (1915), 170 App. Div. 358, 156 N. Y. Supp. 214; modified 216 N. Y. 732.

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Where there is no indorsement on a ballot and it is not clear or apparent whether or not it was originally counted, it cannot be considered on a recount. *People ex rel. Brown v. Bd. of Suprs., Nassau Co.* (1915), 170 App. Div. 358, 156 N. Y. Supp. 214; modified 216 N. Y. 732.

Ballots indorsed under an auxiliary writ of mandamus, cannot be deducted, where it does not appear that there were marks or indorsements made on election night that would serve to identify them so that inspectors could subsequently indorse them. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Ballots on which there are no certain original indorsements cannot be deducted from the count, although they have been indorsed under an auxiliary writ of mandamus as void for one office and counted for all other offices. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Where a ballot has been indorsed "spoiled" at the original canvass, the inspectors cannot be compelled by a writ of mandamus to indorse it "wholly void." Such a ballot should not be added to the vote of a candidate, although valid as to him. *People ex rel. Brown v. Bd. of Suprs., Nassau Co.* (1915), 170 App. Div. 358, 156 N. Y. Supp. 214; modified 216 N. Y. 732.

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Ballots should not be counted for another candidate which are void because of improper marks in voting space. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Attempting to vote for three candidates for same office by placing voting marks opposite their names when only two candidates are to be elected does not wholly destroy the ballot or require the inspector to throw it out, but only to exclude the vote as to the particular office affected, it being impossible to determine the elector's choice for the office. *People ex rel. Feeny v. Board of Canvassers* (1898), 156 N. Y. 39, mod'f'g 23 App. Div. 201, 48 N. Y. Supp. 866, motion for rehearing denied 156 N. Y. 686.

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rel. *Nichols v. County Canvassers of Onondaga* (1892), 122
rel. *Onondaga Savings Bk. v. Butler* (1895), 147 N. Y. 11
split ticket must place his "cross (X) mark" in the
name of his candidate. If he places the mark before
the "voting space" the ballot is void. *People ex rel.*
19 App. Div. 457, 46 N. Y. Supp. 701, aff'g 154 N. Y. 750.
A ballot, apparently caused by a wet or dirty finger, is
an erasure made or attempted. *Matter of Holmes*
N. Y. Supp. 775.

And if there is any mark upon it other than a cross mark
of voting. *Matter of Holmes* (1899), 30 Misc. 127, 61

not for identification. — Where it appears that a voter
mark in the circle at the head of the Republican c
vote for a Democratic candidate for assessor, made a
in the square opposite the name of the Republican ca
discovering his error made a cross mark in the square of
candidate for assessor in the Democratic column al
fact that the ballot was not marked for identification, it
for that reason. *Matter of Baldwin* (1913), 80 Misc. 28

Objections to the counting; disposal of ballots.

It is taken to the counting of any ballot or section
ctors shall forthwith and before canvassing any
on rule upon the objection. If the objection is
this ruling, the chairman, or if he refuse, one of
ers, shall write in ink upon the back of the ha
of the ruling and objection. The memorandum
in the words "Counted void," or "Counted b
for (naming the candidate or candidates or the
" or, in the case of a question submitted "Count
" or "Counted void," or "Counted b

seven, three hundred and seventy-eight and three hundred and eighty of this chapter. The other ballots shall be tied together, labeled, and returned to the ballot box from which they were taken before proceeding to canvass the next kind of ballots to be canvassed.

Any inspector who shall refuse to write in ink upon the back of any ballot a memorandum of a ruling or objection to the counting thereof, or shall refuse to place in the package of protested ballots any ballot as to the counting of which any objection has been taken, shall be guilty of a felony.

Derivation: Election Law, § 110, pt. of subd. 3, as amended by L. 1898, ch. 335, § 7.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

Cross-references. — See notes to Election Law, §§ 358 and 368.

Secrecy is the idea at the foundation of the ballot law, and any construction which would permit the ballots to be counted that would reveal the way the voter using them voted should be avoided as contrary to the true policy and intent of the law. *People ex rel. Nichols v. Bd. of Canvassers* (1892), 129 N. Y. 401.

Ballots incorrectly numbered are "marked ballots" within the statute, and should not be received by the inspectors. But once received and placed in the box, with the stubs containing the numbers torn off, they should be counted. *People ex rel. Bradshaw v. Bidelman* (1893), 69 Hun, 596, 23 N. Y. Supp. 954.

Ballots wrong as to form in that they contain more candidates for a certain office than there are persons to be elected to such office shall be regarded and treated as valid, although unofficial ballots. But votes cast by the use of such ballots for more candidates than should be voted for cannot be counted, because they fail to express the elector's choice for the office, and, if there is one ballot cast only containing the proper number of candidates for an office, such ballot shall be counted and the officers thereby voted for declared elected. *Montgomery v. O'Dell* (1893), 67 Hun, 169, 51 N. Y. St. Rep. 444, 22 N. Y. Supp. 412, aff'd 142 N. Y. 665.

Where but one legal vote was cast for a candidate for an office required by law to be filled at that election, such candidate was rightfully declared elected, though not regularly nominated, and his name not printed on the official ballot. *Montgomery v. O'Dell* (1893), 67 Hun, 169, 51 N. Y. St. Rep. 444, 22 N. Y. Supp. 412, aff'd 142 N. Y. 665.

The eligibility of a person voted for cannot be decided by inspectors of elections; their duty is to count the votes cast for any and every person whose name appears upon a ballot printed and indorsed as the law directs. *People ex rel. Bradley v. Shaw* (1892), 64 Hun, 365, 45 N. Y. St. Rep. 533, 19 N. Y. Supp. 302, aff'd 133 N. Y. 493.

Prior to the legislation of 1890, ballots could be counted for candidates for whom they were cast, though they did not in all respects correspond with the direction of the statute, and after deposited in the box could not be rejected in any case by the canvassers if the intent of the voters was sufficiently expressed. *People ex rel. Nichols v. Board of Canvassers* (1892), 129 N. Y. 401.

Power to reject votes. — The power given to canvassers to reject ballots is strongly condemned in *People ex rel. Feeney v. Bd. of Canvassers* (1897), 23 App. Div. 201, 48 N. Y. Supp. 866, mod'f'g 156 N. Y. 36.

Boards of inspectors of election have no power conferred upon them to correct frauds or rectify mistakes, except clerical ones. Their duty is simply to count the ballots actually in the box at the close of the polls. *People ex rel. Blodgett v. Board*, 44 N. Y. St. Rep. 738, 19 N. Y. Supp. 206.

Canvassers must reject and treat as void all ballots found in the box prepared for and bearing the designation and number of another and a different polling place or election district than the one where the ballot was cast. *People ex rel. Nichols v. Board of Canvassers* (1892), 129 N. Y. 395, 408.

Ballots misplaced. — The election officers may be compelled to place void and protested ballots in separate sealed packages where they have not already done so, provided such ballots can be afterwards identified. *Peo. ex rel. Brown v. Freisch* (1915), 168 App. Div. 370, 153 N. Y. Supp. 277; modified 215 N. Y. 356.

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ing the tallies.

the tally of ballots other than those for presidential electors. Immediately upon counting the vote for any question other than that of presidential elector, the poll clerks shall verify their figures by adding together all the votes, whether for a candidate, or for or against a candidate, or blank. If, in a case where more than one candidate is to be elected to one office, the number of votes tallied (including void and blank votes) does not exactly equal the number of ballots (including void and blank ballots) multiplied by the number of candidates to be elected, or if, in the case of a question where only one candidate is to be elected, the total number of votes tallied (including void and blank votes) shall not exactly equal the number of ballots (including void and blank ballots), an error has been committed and must be immediately made, as hereinbefore provided. *the tally of ballots for presidential electors.* Immediately upon counting the ballots for presidential electors, the poll clerks shall verify their figures as follows:

shall add together the votes counted for electors of each State and Territory, and

shall add together the votes counted for and

Care in following statutory provisions. — Where a ballot is not void but is to be dealt with as objected to because marked for identification, great care should be observed to follow every provision of the statute designed to identify or preserve the ballot for future legal proceedings. *People ex rel. White v. Board of Aldermen of Buffalo*, (1898) 157 N. Y. 431, mod'f'g 31 App. Div. 438, 52 N. Y. Supp. 643.

No power to reject ballots marked for identification. — A canvassing board has no power to reject ballots which are marked for identification, and a mandamus will not lie to require them to do so. *In re Kline*, (1896) 17 Misc. 672, 40 N. Y. Supp. 600; *People ex rel. McLaughlin v. Ammenwerth*, (1910) 197 N. Y. 340, aff'g 135 App. Div. 893, 120 N. Y. Supp. 295.

Inspectors have no right to reject a ballot because it bears marks which they think were placed upon it by the voters for the purpose of identifying it, but they must count such ballots and indorse them "protested as marked for identification." *Matter of Houligan*, (1907) 55 Misc. 5, 106 N. Y. Supp. 205.

Where inspectors, pursuant to a writ of mandamus, have corrected their return by counting ballots protested as marked for identification, a subsequent writ does not lie to compel the board of county canvassers to direct the election inspectors to again change the return so that the figures conform to the tally sheet of the votes in that district. Such relief would in effect reverse the prior order. *People ex rel. McLaughlin v. Ammenwerth*, (1910) 197 N. Y. 340, aff'g 135 App. Div. 893, 120 N. Y. Supp. 295.

A single inspector cannot indorse upon a ballot an objection raised subsequently to the canvass that it was marked for identification. *People ex rel. Bush v. Board*, (1893) 66 Hun, 265, 21 N. Y. Supp. 279.

Inspectors are liable in damages for refusing to perform any of the acts required by the statute in relation to ballots objected to as marked for identification. *People ex rel. Hasbrouck v. Supervisors*, (1892) 135 N. Y. 522.

When the objection to ballots as marked for identification is not raised during the canvass, a mandamus will not lie to compel the inspectors to reconvene and recount the ballots. The remedy left open is by quo warranto, or by the determination of the board to which an officer is declared elected by the canvass objected to. *People ex rel. Clark v. Earley*, (1896) 16 Misc. 603, 40 N. Y. Supp. 587.

§ 371. General provisions as to canvass.

The ballots shall at all times be kept on top of the table and in plain view of all parties entitled to examine them, until they have been tied into bundles as elsewhere provided. If requested by any person entitled to be present the inspector shall, during the canvass of any ballot, exhibit to him the ballot then being canvassed, fully opened and in such a condition that he may fully and carefully read and examine it, but no inspector shall allow any ballot to be taken from his hand or to be removed from any pile by any person but the chairman. Any person other than a constituted election officer who shall handle any ballot voted or unvoted or the stub thereof shall be guilty of a misdemeanor. Any person who shall mark, tear or deface any ballot of another with the intent of

for altering a vote or ballot, shall be guilty of a crime and be punished upon conviction thereof by imprisonment for a period of not less than five nor more than

Election Law, § 110, pt. of subd. 3, as amended by L. 1913, ch. 821; L. 1917, ch. 703, in effect June 1, 1917.

Statement of canvass to be delivered to police.

Cities and villages of five thousand inhabitants or more. The chairman of the board of inspectors shall, forthwith upon the closing of the count of votes and the announcement thereof by the police officer on duty at such place of canvass, prepare a statement subscribed by the board of inspectors, stating the number of votes received by each candidate for office. Such statement shall be conveyed by the said officer to the station nearest the precinct in which such place of canvass is located, and shall be delivered over the same inviolate to the officer in command of the station, who shall immediately transmit by telegraph, telephone or otherwise the contents of such statement to the officer commanding the police department of such city or village. In a city of five thousand inhabitants, such commanding officer shall cause the statement to be immediately tabulated so that the final result may be known as early as possible, and within twenty-four hours after the closing of the canvass such statement itself shall be delivered to the state canvassing board.

and printed on the forms. In the absence of an officer authorized to take acknowledgments and proof of deeds, and for the purposes of this chapter, any election officer shall be authorized to administer the oath to any other election officer. Each of the two tally sheets shall be securely attached by the chairman to one of the returns relating to the same office or question and shall be treated as a part thereof.

Any election officer who shall sign any statement of the canvass at any place other than the polling place, or at any time other than immediately after the canvass is completed, except under direction of a court, and any election officer or person who shall take from the polling place any such statement before it shall have been signed as herein provided, is guilty of a felony, and shall be punished, upon conviction thereof, by imprisonment in a state prison for not less than two nor more than five years.

If changes be necessary in any of the forms for tallies and returns, as prescribed in this article, the secretary of state shall prescribe the same.

Derivation: Election Law, pt. of § 111.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

Consolidators' note.—The direction to indorse ballots which have been protested as marked for identification is omitted, this direction having been already given fully in section 370. The expression here omitted, "protested as," is better than the expression used in section 370, "objected to as," and is accordingly transplanted to that section.

Cross-References.—For form of election returns, see Election Law, § 338. Making false return. Penal Law, § 766 (part 5, *post*). Correction of errors in statement. Election Law, § 432. Canvass of vote and proclamation of result where voting machine used. Election Law, § 413.

Void ballots.—The decision as to the validity of such a ballot must be made by the inspectors while making the canvass and calls for a summary determination upon a mere inspection of the ballot itself. If its markings do not substantially comply with the rules and requirements of the Election Law, it must be adjudged void and returned endorsed by the inspectors as void. *Matter of Houligan*, (1907) 55 Misc. 8, 106 N. Y. Supp. 205.

An erasure or alteration visible upon the face of a statement of canvass will not create the presumption of fraud. Election returns are documents of a public nature, and in the absence of proof that they have been fraudulently tampered with will be received as evidence in courts of justice. *People ex rel. Stone v. Minck*, (1860) 21 N. Y. 539.

A new statement of canvass cannot be made by the inspectors after the completion and filing of the original statement. Boards of inspectors cannot thus review their own acts. *People ex rel. Russell v. Board*, (1887) 46 Hun 390, 20 Abb. N. C. 19.

Inspectors having made a canvass cannot be compelled or permitted

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new one. *People ex rel. Fiske v. Devermann*, (1894) 82 N. Y. 593.

ing of a statement in blank in advance of the regular, but if, by the consent and action of the canvassers, filled up with the result agreed upon by all of their members, becomes effective. *People ex rel. Fiske v. Devermann*, (1894) 82 N. Y. Supp. 593.

Inspectors of election have made and signed their statement, and cannot afterwards indorse ballots in violation of law. *Matter of Kline*, (1896) 17 Misc. 672, 40 N. Y. 279; *People ex rel. Bush v. County Canvassers of Ulster*, (1892) 66 Hun 279; *People ex rel. Gaige v. Reardon*, (1886) 40 Hun 279. It appears that ballots were not marked at the time and in violation of the statute neither the board of inspectors, nor a canvasser, in its permission, can thereafter attach to the statement of the inspectors before filed ballots alleged to have been marked for its use. *People ex rel. Bush v. County Canvassers*, (1892) 66 Hun 279.

Ballots which have been preserved in violation of law and have been used by the election officer should not thereafter be allowed to be used in the statement of the canvassers. *People ex rel. Bush v. County Canvassers*, (1892) 66 Hun 265, 21 N. Y. Supp. 279.

as evidence. — Though the election laws do not, in the return of votes made by the inspectors of election, make the evidence in courts of justice, they are so, upon general principles. *People ex rel. Stone v. Mink*, (1900) 21 N. Y. 539.

Signing of returns by inspectors of election is a ministerial act. *People ex rel. Mink v. Board of Election*, (1856) 22 Barb. 721.

returns. — Where inspectors counted the ballots cast, and found that fraudulent votes were cast by persons not registered, and who upon being duly sworn, were "unsatisfactory," a peremptory writ of mandamus lies to compel such inspectors to sign the returns. *People ex rel. Board of Election v. Board of Election*, (1894) 82 N. Y. 175.

Inspectors of election indorse on the return the result of the election.

§ 374. *People ex rel. Maxim v. Ward* (1901), 62 App. Div. 531, 71 N. Y. Supp. 76. Although a proceeding under this section in which the facts whether objection was made to certain marked ballots at the time of canvass, etc., are disputed, might call for the issuance of an alternative writ of mandamus, yet relief cannot be granted upon application for peremptory writ. *People ex rel. Bush v. County Canvassers*, (1892), 66 Hun, 265, 21 N. Y. Supp. 279.

Failure to file returns and to seal and deliver ballot box. — Where due opportunity has been given to electors to vote for or against local option and the votes have been cast and canvassed, the result declared, and the returns made by the ballot clerks, the failure of the inspectors to make and file the returns and to seal and deliver the ballot box to the proper custodian does not invalidate the election. *Matter of Norton* (1912), 152 App. Div. 628.

§ 374. Preservation of ballots.

After the last tally sheets and returns are completed, and all the stubs and ballots, except the protested, void and wholly blank ballots, are replaced in the boxes from which they were taken, each box shall be securely locked and sealed, and deposited, by an inspector designated for that purpose, with the officer or board furnishing it, together with the separate sealed package of unused official ballots. The boxes and packages so deposited shall be preserved inviolate for six months after the election, except that they may be opened and their contents examined upon the order of any court of competent jurisdiction or may be opened by direction of a committee of the senate or assembly to investigate and report upon contested elections of members of the legislature voted for at such election and their contents examined by such committee in the presence of the officer having the custody of such boxes. Unless ordered to be preserved by such a court, or unless an examination by such a committee be pending, they shall be opened and their contents destroyed after six months, except, that in a year in which a president of the United States is to be elected, in counties in which no contest has been noted, such boxes may be opened and their contents destroyed after four months and the boxes prepared for use at the primary election as provided in section seventy-nine of this chapter. The protested, void and wholly blank ballots shall be preserved as provided in section four hundred and thirty-seven of this chapter. Any candidate shall be entitled as of right to an examination in person or by authorized agents of any ballots upon which his name lawfully appeared as that of a candidate; but the court shall prescribe such conditions as of notice to other candidates or otherwise as it shall deem necessary and proper.

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Election Law, pt. of § 111.

by L. 1913, ch. 821; L. 1916, ch. 31, 537, in effect May 1, 1917, of the statute requiring a preservation of ballots in order to be used as evidence upon a criminal prosecution or in an action to annul an election in which a candidate was elected to office. *People v. McClellan* (1917), 124 App. Div. 215, 108 N. Y. Supp. 765.

It does not confer authority upon the county court to inquire into the manner in which the right of suffrage has been exercised, or to count or recount of the ballots cast at an election by ballot box, or before a referee. *Matter of Tompkins* (1897), 23 App. Div. 737.

An order directing the opening of a ballot box and the inspection of the same cannot be granted on the application of one of the candidates, even if by mistake or otherwise the figures shown by the count of the ballots were transposed on the statement made by the inspector of the county of Members of Assembly for First District of Erie (1901), 391, 77 N. Y. St. Rep. 710, 43 N. Y. Supp. 710.

If judicial proceedings are pending and it does not appear that the election is void, the court is without power to grant an order under section 381, for the opening of ballot boxes containing ballots not void or protested upon the ground that the time within which they might have been opened has expired under section 381 to expire. *Matter of Ulrich* (1901), 391, 77 N. Y. St. Rep. 710, 43 N. Y. Supp. 710.

It authorizes the court to open ballot boxes and permit the ballots to be examined, but it does not confer the power to direct a writ of mandamus will not lie to compel it. *People ex rel. v. Board of Supervisors* (1888), 188 N. Y. 296, modified 117 App. Div. 374, 103 N. Y. St. Rep. 710, 43 N. Y. Supp. 710.

Authority conferred limited.—While the court may permit a ballot box to be opened and the ballots upon which the name of the applicant candidate appears to be examined, the authority conferred is limited to an examination of the ballots. Jurisdiction is not granted to direct a recount or recanvass. *People ex rel. Brown v. Freisch* (1915), 215 N. Y. 356, reported below, 168 App. Div. 370, 153 N. Y. Supp. 277.

Any candidate voted for at a general election is entitled to an examination as of right of any ballots upon which his name lawfully appears as that of a candidate, whether the validity of the controversy is in question or not. *Matter of Quinn* (1917), 220 N. Y. —, aff'g 175 App. Div. 681, 160 N. Y. Supp. 867.

A candidate for a town office is entitled to an examination. And when the time set for the inspection has expired, the opposing candidate is entitled to another notice. *Matter of Quinn* (1916), 175 App. Div. 681, 160 N. Y. Supp. 867, 220 N. Y. —.

Quo warranto to determine title to office.—Where, in an action of quo warranto to determine a title of an office, the plaintiff serves a bill of particulars pursuant to an order directing the attorney-general to specify the particulars of the errors, miscounts and illegal acts alleged in the complaint, which stated some of the particulars required, and alleged that further particulars could not be had as the ballots cast in the election in question were retained in boxes in the custody of the board of elections, under lock and key, and that no person had been permitted to open and examine their contents, the plaintiff could not be precluded from giving evidence of fraud, error, omission or mistake except in the election districts specified in the bill of particulars. *People v. McClellan* (1908), 191 N. Y. 341, rev'g 124 App. Div. 215, 108 N. Y. Supp. 765.

In an action of quo warranto to determine the title of an office, any ballot box may be opened and its contents recounted without preliminary evidence tending to show some misconduct, error, omission or fraud in counting or canvassing of the votes or in the returns. *People v. McClellan* (1908), 191 N. Y. 341, rev'g 124 App. Div. 215, 108 N. Y. Supp. 765.

Sealing boxes.—The provision of L. 1872, ch. 575, an act to regulate elections in the city of Brooklyn, that after the canvass is completed the ballots are to be returned to the ballot boxes, and said boxes were to be "securely sealed up by the canvassers," contemplates that the boxes shall be so sealed that they cannot be opened without breaking the seal. Where the inspectors sealed the apertures of the boxes through which the ballots were inserted, and the canvassers did not remove these seals but delivered the boxes to the police department without further sealing, it was held not in compliance with the act.

But where it is proved satisfactorily that the boxes had been kept "undisturbed and inviolate" the omission of the canvassers to seal up the boxes as contemplated did not render the ballots inadmissible in evidence. *People ex rel. Dailey v. Livingston* (1879), 79 N. Y. 279, rev'g 18 Hun. 59.

As to effect of failure to seal and deliver ballot box upon validity of local option election, see *Matter of Norton* (1912), 152 App. Div. 628.

Custody of boxes.—The court will not order ballot boxes to be taken from their legally designated custodians, nor guards of such boxes to be appointed or continued without proof of facts affording reasonable grounds for the fear that they will be tampered with or that they are exposed to the danger of loss. *People v. McClellan* (1907), 52 Misc. 614, 103 N. Y. Supp. 827, aff'd, 118 App. Div. 177, 103 N. Y. Supp. 146, aff'd, 188 N. Y. 618.

Preservation of boxes after statutory time.—Although this section provides for the destruction of ballots after the expiration of six months, yet, when new ballot boxes have been acquired and the controversy is opened as to the legality of an election, an order requiring the preservation of the ballots after the statutory time will not be vacated. *Matter of Hearst* (1907), 117 App. Div. 240, 102 N. Y. Supp. 47.

to relieve from an order preserving ballots after the
months should be made by the board of elections against
other than by the office holder whose election is contested.
(1907), 117 App. Div. 240, 102 N. Y. Supp. 47.

has no application to voting machines, and is not made a
417, which merely declares that other articles of the I
licable to voting machines generally, shall apply to vot

This provision is not broad enough to warrant the g
the examination of voting machines analogous to an ex
of ballot boxes under this section. Matter of Thomas
rev'g 371 App. Div. 977; see 62 Misc. 483, 156 N. Y. Su

Declaration of result.

completion of such canvass and of the statement
hereof, the chairman of the board of inspectors
oral proclamation of the whole number of vote
tion at such polling place for all candidates for
each proposed constitutional amendment or other
position, if any, voted upon at such election; the
votes given for each person, with the title of the
was named on the ballot; and the whole num
respectively for and against each proposed con
ment or other question or proposition, if at

§ 377. Delivery and filing of papers relating to the election; general provisions.

If the election be other than an election of town, city, village or school officers, held at a different time from a general election, the chairman of the board of inspectors of each election district, except in the city of New York shall forthwith upon the completion of the triplicate statement of the result, deliver one set of returns to the supervisor of the town in which the election district, if outside of a city, is situated, and if in a city, to one of the supervisors of said city. If there be no supervisor, or if he be absent or unable to attend the meeting of the county board of canvassers, it shall be forthwith delivered to an assessor of such town or city. One set of returns with tally sheets annexed, together with the poll books of the election, shall be forthwith filed by such inspectors, or by one of them deputed for that purpose, with the town clerk of such town, or the city clerk of such city, as the case may be. The package of protested, void and wholly blank ballots and the third set of returns with tally sheets annexed shall, within twenty-four hours after the completion of such canvass, be filed by the chairman of the board of inspectors, with the board of elections of the county in which the election district is situated. The register of electors and public copy thereof shall be filed as prescribed in section one hundred and eighty of this chapter. Each poll book containing signatures of electors required by this chapter to sign the poll book and all "identification statements for election day" received thereat shall within forty-eight hours after the close of the canvass be filed in person or by mail by the poll clerk of each election district having charge of such book, with the state superintendent of elections in such one of his offices as he may in writing designate.

Derivation: Election Law, § 113, subd. 1, as amended by L. 1897, ch. 379, § 20; L. 1905, ch. 165, § 1; ch. 643, § 20; and L. 1908, ch. 464, § 1.

Amended by L. 1911, ch. 649; L. 1913, ch. 821; L. 1916, ch. 537, in effect May 15, 1916.

Cross-references. — Destruction or delay of election returns. Penal Law, § 1429 (part 5, post).

When filing a nullity. — After inspectors of election have filed their statement, as required by law, a paper by part of the board of inspectors, made and filed with the city clerk two days later, is a nullity. *People ex rel. Brennan v. City of Kingston* (1891), 50 Hun, 617, 13 N. Y. Supp. 215; *Bren-*

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Hun, 617, 13 N. Y. Supp. 216; *Halloran v. Carter*, 1 Rep. 881, 13 N. Y. Supp. 214.

to file in time does not invalidate election.—The returns from a number of election districts were not filed within twenty-four hours after the completion of the election, where it appears that such fact was due to the fact that the inspector who carried the returns to the county clerk's office within the prescribed time, on account of the fact that the election returns of some of the districts were found to be defective. *People ex rel. Will v. Board of Supervisors* (1905), 105 App. Div. 197, 94 N. Y. Supp. 990, 1

will be to compel inspectors of election to perform their duty in the making and filing of true copies of the returns. *Gleason v. Blanc*, 14 Misc. 620, 36 N. Y. Supp. 620. Upon two of the members of a board of canvassers' duty to file of canvass improperly made and filed by them made subsequently to the close of the canvass after the canvass had been made and filed. *People ex rel. 1 v. Board of Supervisors*, 83 Hun, 181, 31 N. Y. Supp. 593.

every and filing of papers in the city of New York.—In the city of New York the package of protested, voided, and rejected ballots and one set of returns with tally sheet or with one of the poll books, shall be filed with the board of inspectors within twenty-four hours after the closing of the polls with the county clerk.

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man of the board of inspectors with the clerk of the county outside of the city of New York in which such officers or any of them are voted for at such election.

Derivation: Election Law, § 113, subd. 2, as amended by L. 1897, ch. 379, § 20; L. 1901, ch. 95, § 19.

Amended by L. 1911, chs. 274 and 649; and L. 1913, ch. 821, in effect Dec. 17, 1913.

Consolidators' Note. — The requirement that the police shall return the package of stubs, etc., in New York city to the "bureau of elections of the borough" is changed to "board of elections or to the chief clerk of the branch office of the board of elections, as the case may be, in the borough," the former superintendent and bureau of elections, with branch bureaus, in the police department, having been succeeded in 1901 by the board of elections and its branches.

§ 379. Additional requirements in the metropolitan elections district.

(Repealed by L. 1911, ch. 649, in effect July 13, 1911.)

§ 380. Delivery and filing of papers in the county of Erie.

In the county of Erie one return with tally sheets annexed shall be filed forthwith by one inspector deputed for that purpose, with the clerk of the town, or the clerk of the city of Buffalo, or the clerk of the city of Tonawanda, as the case may be, and one return with the clerk of the county of Erie. The package of protested, void and wholly blank ballots and the third return with tally sheets annexed shall, within twenty-four hours after the completion of such canvass, be filed by the chairman of each board of inspectors with the commissioner of elections. All poll lists for the various election districts in the city of Buffalo shall be filed with the commissioner of elections, and those for the city of Tonawanda with the clerk of such city, and those for the towns in Erie county with the town clerks thereof.

Derivation: Election Law, § 113, subd. 4, as added by L. 1905, ch. 643, § 21.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

§ 381. Judicial investigation of ballots.

If any statement of the result of the canvass in an election district shall show that any of the ballots counted at an election therein were protested or were canvassed as wholly blank or void, a writ of mandamus may, upon the application of any candidate voted for at such election in such district, within twenty days

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Issue out of the supreme court to the board or to any, of the return of the inspectors of such election, otherwise to the inspectors of election making requiring a canvass of such ballots. If the proceedings upon such writ, determine that an election was properly canvassed, it shall order the error to be corrected by the inspectors of election districts, and the inspectors shall continue in office for the purpose of an

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L. 1913, ch. 821, in effect Dec. 17, 1913.

Proced. — See cases cited in notes to Election Law, §§ 358-360. The power conferred is confined to a review of the protested, and is not to be exercised if the ballots are returned in the sealed package. The court may not order the opening of a box of voted ballots, months after an election, to inspect the ballots therein, and without any marks of identification appearing thereon, and without any marks of identification appearing thereon, and without any marks of identification appearing thereon, and without any marks of identification appearing thereon. Where spoiled or canceled ballots are found in envelopes, they may be marked as such and placed in the boxes with the other ballots. *Per curiam Brown v. French* (1915), 215 N. Y. 356, 137 N. Y. Supp. 277.

The court is not to review the acts of an election board in determining the result, as such acts are not judicial in character.

but must find authorization and support in the express provisions of some statute or statutes. *Matter of Tamney v. Atkins* (1913), 209 N. Y. 202.

An alternative writ of mandamus should be procured so that disputed facts can be settled before the peremptory writ issues. *People ex rel. Hasbrouck v. Supervisors* (1892), 135 N. Y. 522.

There is no occasion to issue an alternative writ of mandamus, where, after the proof is all in, it appears that there is no material dispute of fact and that the right of the applicant, if he has any, depends merely upon the decision of question of law. *People ex rel. Bantell v. Morgan* (1899), 20 App. Div. 48, 46 N. Y. Supp. 898.

The alternative writ of mandamus delegates to the board of inspectors the whole matter of recanvassing the ballots, with no specific directions as to how such recanvass is to be conducted, beyond the direction that they are to follow the language of the statute. *People ex rel. Phillips v. Sutherland* (1896), 9 App. Div. 313, 41 N. Y. Supp. 181.

A peremptory writ of mandamus lies to compel the counting of votes for an office omitted to be named upon the official ballot, when written upon the ballot. *People ex rel. Goring v. President* (1894), 144 N. Y. 616, aff'g 9 Misc. 246, 30 N. Y. Supp. 265.

A peremptory mandamus will not be granted where the answering affidavits raise an issue as to material facts alleged in the petition. *Matter of Kline* (1896), 17 Misc. 672, 40 N. Y. Supp. 600.

A peremptory writ of mandamus will not be granted to compel a recount of ballots cast at a general election rejected as void and those protested as marked for identification, where the opposing affidavits allege that packages containing such ballots were found in the county clerk's office in a place to which all persons had an easy access; that none of such packages were indorsed; that some of them were sealed and others unsealed; that many ballots were not indorsed as required by the Election Law, and that many had actually been counted for the petitioner. *People ex rel. Perry v. Board of Canvassers* (1903), 88 App. Div. 185, 84 N. Y. Supp. 406.

It seems, however, that the court would have power to issue a writ of mandamus to compel the various election officials to perform, with respect to the ballots in question, the duties imposed upon them by the Election Law. *People ex rel. Perry v. Board of Canvassers* (1903), 88 App. Div. 185, 84 N. Y. Supp. 406.

Application for mandamus must show that violation of inspector was prejudicial. *People ex rel. Larkin v. Palmer* (1899), 27 Misc. 569, 59 N. Y. Supp. 62.

Mandamus will not be granted on affidavits on information and belief, which do not state source of information or grounds of belief. *People ex rel. Watkins v. Bd. of Canvassers of Oneida* (1898), 25 Misc. 444, 55 N. Y. Supp. 712.

The court must determine in the mandamus proceeding whether, under the circumstances of the particular case, there has been such a substantial compliance with the statute as will enable the candidate complaining of marked ballots to maintain the proceeding. Inspectors cannot defeat the mandamus proceeding by failing to write their names on the ballots or to make the required statement. *People ex rel. Hasbrouck v. Supervisors* (1892), 135 N. Y. 522.

The right of a claimant to an office cannot be tried by mandamus where the person claimed to have been elected illegally is actually in possession of the

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ona fide claim and an election that is not merely to
contends that he had a majority of legal votes he may
into to oust the actual occupant before he can obtain
his own admission. *People ex rel. Gaige v. Reardon*,
N. Y. Supp. 500.

to oust public officer. — Particulars required of plat
to districts in which votes were illegally cast. *See*
188), 124 App. Div. 215, 108 N. Y. Supp. 765, rev'd 191 N.
of canvass or certificate of election is only prima facie
the persons therein declared elected to the offices me
or certificate. Where a proceeding by quo warrant
warranto is instituted to try the right to the offices
to go behind the certificate or statement, which would
to ascertain the real facts of the case. *People v. Va*
1897; *People v. Ferguson* (1827), 8 Cow. 102; *People*
12; *People v. Seaman* (1848), 3 Den. 400.

or frauds and mistakes other than clerical is by prop
or before the board or body, to membership in wh
is a candidate, where that board or body has the pow
determine the qualifications and election of its own m
such a proper proceeding in court. *People ex rel. I*
N. Y. St. Rep. 738, 19 N. Y. Supp. 206.

compel recount and recanvass. The Election Law d
nor does it confer authority, upon election officers to
subsequent to the completion of a canvass made by th
cast at the election, and the courts have no power,
compel such recount by mandamus. *Matter of H*
N. Y. App. Div. 310, 96 N. Y. Su

results of an election, where it appears that the return made contains clerical errors and that the canvass of the votes cast was in some respects conducted in violation of the Election Law. *People ex rel. Ranton v. Syracuse* (1895), 88 Hun, 203, 34 N. Y. Supp. 661.

In a petition for mandamus under this section to obtain a recount of ballots which were counted although marked for identification and other ballots which were rejected as void, the petitioner must state the particular election districts in which the facts stated appeared upon the certified return. *Matter of Ordway* (1907), 118 App. Div. 386, 103 N. Y. Supp. 360.

In the absence of an express statutory provision, a private citizen and voter has no right, after a correct canvass of the votes cast at an election has been made, to compel a recanvass upon the sole ground that the canvass already made was not made by the officers authorized by law to make it. *Matter of Scofield v. Board of Aldermen* (1905), 102 App. Div. 358, 92 N. Y. Supp. 672.

The Supreme Court has no authority under this section or under its general power, authority and jurisdiction to determine the validity of ballots contained in the boxes deposited with the city clerk, where there has been a clerical error in the returns by the election inspectors, nor to order a recount of such ballots. *People ex rel. White v. Supervisors of Albany County* (1908), 192 N. Y. 539, aff'd 125 App. Div. 914, 109 N. Y. Supp. 1142.

Mandamus is not proper remedy to test title to a public office of which there is a defacto incumbent. *People ex rel. Veleforden v. Bauer* (1910), 137 App. Div. 67, 122 N. Y. Supp. 60.

Special acts providing for a judicial recount and recanvass of the votes cast for the office of mayor at the election of November 7, 1905, in cities of the first class, were passed by the Legislature in 1907. See chs. 538 and 558, L. 1907.

A county court has no power to order a recount of ballots, nor power to appoint a referee to supervise the recount and to decide as to the validity of ballots. *Matter of Tompkins* (1897), 23 App. Div. 224, 48 N. Y. Supp. 737.

Where the returns do not agree with the tally sheet the courts can require by mandamus that the inspectors be summoned before the board of county canvassers and be compelled to amend their returns by inserting in them the results as shown by the tally sheets. *Matter of Stewart* (1897), 24 App. Div. 201, 48 N. Y. Supp. 957, aff'd 155 N. Y. 545.

In an aldermanic election in New York city where the ballot clerk's returns agreed with the statements of canvass prepared by the boards of inspectors except in a single district, in which it was conceded an error was made by the inspectors in transcribing the result of the count, which mistake the respondent consented to have corrected, an application to open the ballot boxes was denied. *Matter of Slattery* (1906), 50 Misc. 212, 100 N. Y. Supp. 419.

The intent of the voter will be effectuated as far as possible by the court's ruling as to the counting or discarding of votes. *People ex rel. Nichols v. Board of Canvassers* (1892), 129 N. Y. 401.

Mandamus to investigate void and protested ballots. — The power of the court in a proceeding to investigate void and protested ballots is not limited to determine whether the ballots in question are valid or void, but it may go further and determine for what particular candidates they should be counted. *In re "Jerome Ballots"* (1905), 48 Misc. 441, 96 N. Y. Supp. 122.

If void ballots have been treated by the inspectors as ballots marked for

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at identification and counted, the court has jurisdiction to void ballots and to direct the inspectors to make the election on that basis. *People ex rel. White v. Buffalo* (1898), 157 N. Y. 431, mod'g 31 App. Div. 438,

votes, found in sealed packages of ballots objected to identification, are returned by the election inspectors as such, but are marked by them as "counted, objected to" and jurisdiction to consider their validity in general. *People ex rel. (1900)*, 30 Misc. 461, 63 N. Y. Supp. 904.

In such a case a writ of mandamus may be issued to determine the votes thereon, which has been rejected by the inspectors. *Matter of Larken* (1900), 40 App. Div. 366, 160, rev'd on another ground 163 N. Y. 201.

To compel the counting of votes protested as marked for identification will be compelled by mandamus to recount the return and will be deemed to continue in office for that purpose. *McLaughlin v. Ammenwerth* (1910), 197 N. Y. 340, 120 N. Y. Supp. 295.

Inspectors, pursuant to a writ of mandamus, had corrected the return by counting the votes marked for identification, a writ of mandamus will be issued to compel the Board of County Canvassers to direct the inspectors to again change the return so that the figures count the votes in that district. Such relief would be granted. *People ex rel. McLaughlin v. Ammenwerth* (1910), 197 N. Y. 340, 120 N. Y. Supp. 295.

determined as an issue of fact by the court. *People ex rel. Hasbrouck v. Supervisors* (1892), 135 N. Y. 522.

Inspectors must count all ballots whether objected to or not, and in a proceeding to obtain a writ of mandamus compelling them so to do the question as to whether the ballots were marked for identification cannot be raised. *People ex rel. Bradley v. Shaw* (1892), 64 Hun, 365, 45 N. Y. St. Rep. 533, 19 N. Y. Supp. 302, *aff'd* 133 N. Y. 493.

There is nothing for the inspectors to do except to count the ballots in the box. They are prohibited from receiving any having any mark on the outside or not properly indorsed, and if anything appears on the inside of the ballot not authorized by law they must preserve such ballot; then those interested have ample opportunity to deliberately investigate the matter, and after such investigation, if they think proper, present it to the court for its determination. *People ex rel. Bradley v. Shaw* (1892), 64 Hun, 365, 45 N. Y. St. Rep. 533, 19 N. Y. Supp. 302, *aff'd* 133 N. Y. 493.

Every inspector must sign the certificate containing a statement of canvass required by law. He cannot refuse to do so on the ground that he knows or believes that votes were cast by persons who had no right to cast them. If such persons have taken the required oaths the inspectors must receive the votes, and a mandamus will issue compelling them to sign the returns. *People ex rel. Stapleton v. Bell* (1890), 119 N. Y. 175.

An irregularity on the part of the inspectors in not complying with the law in making and filing their returns cannot be availed of by one who does not show himself to have been injured thereby. *People ex rel. Hatzel v. Board*, 58 How. 141.

The court, in its discretion, may decline to interfere to correct irregularities which do not affect the result of an election. *People ex rel. May v. Strang* (1910), 137 App. Div. 848, 122 N. Y. Supp. 617.

Where the notice of appeal includes a certain ballot as one of those in reference to which the petitioner questions the decision at special term, but his counsel fails to question the decision in his brief, the appellate court will not consider such ballot. *Matter of Brown v. Bd. of Canvassers, Queens Co.* (1915), 170 App. Div. 476, 155 N. Y. Supp. 979; modified 216 N. Y. 732.

A ballot returned as "blank" and subsequently under a writ of mandamus indorsed as "wholly blank," but containing a valid ballot for one candidate, should be counted for him. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Reversal of orders by Court of Appeals.—Orders, granting writs of mandamus in a proceeding to review an election, which have been affirmed by the Appellate Division and reversed "in whole or in part" by the Court of Appeals, and remitted to the Supreme Court for action, remain unaffected in so far as they command acts lawful within the decision of the Court of Appeals. *People ex rel. Brown v. Bd. of Suprs., Suffolk Co.* (1915), 170 App. Div. 364, 156 N. Y. Supp. 205; modified 216 N. Y. 732.

Appeal to Court of Appeals.—An order of the Appellate Division in a proceeding by mandamus for the recount of ballots objected to as marked for identification or rejected as void, and presenting a question of law for review, is appealable as a matter of right to the Court of Appeals as an order finally determining a special proceeding. *People ex rel. Feeny v. Board of Canvassers*

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Y 30, mod'fy 23 App. Div. 201, 49 N. Y. Supp. 860, m
196 N. Y. 686.

return of inspectors so as to make a correct return of
them may be compelled by the court irrespective of
Election Law. *People ex rel. Hennessy v. Douglass* (1911)

ly sheets and correction of mistakes therein may be c
People ex rel. Hennessy v. Douglass (1911), 142 App.
n of vote on town proposition by inspectors is co
as review is allowed by statute. *People ex rel. May*
Div. 848, 122 N. Y. Supp. 617

must be expressly authorized. A mandamus to compel
is may not be maintained by virtue of any inherent
must be expressly authorized by statute. *Matter of*
14, 1913), 299 N. Y. 262, rev'g 151 App. Div. 309.

own election. The amendment of 1899, section 37 of l
void and protested ballot and the voted ballots, af
ted, shall be preserved and disposed of by the insp
ded by section 111 of the Election Law," did not o
at review under the provision of this section save w
held at the same time as the general election in th
of Baldwin 1913, 90 Misc. 263.

If the town election has been improperly declared by
ers relator has a remedy by quo warranto proceed
is under the provisions of this section. *Matter of*

ARTICLE 11.**VOTING MACHINES.****Section 390. State voting machine commissioners.**

- 391. Examination of voting machine.
- 392. Requirements of voting machine.
- 393. Adoption of voting machine.
- 394. Experimental use of voting machine.
- 395. Providing machines.
- 396. Payment for machines.
- 397. Form of ballots.
- 398. Sample ballots.
- 399. Number of official ballots.
- 400. Preparation of voting machine for election.
- 401. Instruction of election officers.
- 402. Instruction of voters before election.
- 403. Independent nominations.
- 404. Distribution of ballots and stationery.
- 405. Tally sheets.
- 406. Unofficial ballots.
- 407. Opening the polls.
- 408. Irregular ballots.
- 409. Location of machines; guard-rail.
- 410. Manner of voting.
- 411. Instructing voters.
- 412. Illiterate or disabled voters.
- 413. Canvass of vote and proclamation of result.
- 414. Disposition of irregular ballots; and preserving the record of the machine.
- 415. Disposition of keys; opening counter compartment.
- 416. Provision for re-canvass of vote.
- 417. Application of other articles and penal law.
- 418. When ballot clerks not to be elected.
- 419. Number of votes in election districts.
- 420. Definitions.
- 421. Saving clause.

§ 390. State voting machine commissioners.

There shall be a state board of voting machine commissioners which shall consist of three commissioners to be appointed by the governor every five years, one of whom shall be an expert in patent law and two of whom shall be mechanical experts. Their successive terms of office shall begin on the first day of January of every fifth year dating from nineteen hundred and three and end on the thirty-first day of December. Any commissioner now in office or hereafter appointed may be removed at the pleasure of the governor, and vacancies shall be filled by the governor for any unexpired term.

No voting machine commissioner shall have any pecuniary interest in any voting machine.

Derivation: Election Law, § 160, as added by L. 1899, ch. 466, § 1.

Consolidators' note. — Rewritten, but substance unchanged. The original section continued the voting machine commissioners appointed under Laws 1897, chapter 450, until December 31, 1902, and provided for their successors. The new section provides for a series of five-year terms, dating from January 1, 1903 (the beginning of the existing tenures), each term ending December 31.

Examination of voting machine.

Any person or corporation owning or being interested in any voting machine may apply to the state board of voting machine commissioners to examine such machine and report on its accuracy, efficiency and ability to register the will of voters. The commissioners shall examine such machine and report accordingly. Their report shall be filed with the secretary of state and shall state whether the machine of the kind so examined can be safely used at elections, under the conditions prescribed in this act. If the secretary states that the machine can be so used, it shall be approved by the commissioners and machines of its kind may be used at elections as herein provided. When the machine is not approved, any improvement or change that does not affect the efficiency or capacity shall not render necessary a new examination or re-approval thereof. Any form of voting machine which has not been heretofore examined and reported on pursuant to law and its use at any election by law, can not be used at any election. Each person or corporation applying for such examination and report, to be made by the board, shall be entitled to one hundred and fifty dollars for his compensation in making such examination and report, to be paid by the state.

Source: Election Law, § 161, as added by L. 1899, ch. 400, § 1; L. 1901, ch. 530, § 1.

Requirements of voting machine.

A voting machine approved by the State board of voting machine commissioners shall be so constructed as to provide facilities for voting

Consolidators' note.—The provision that a machine "may" be so constructed as to provide facilities for seven different parties is made "must." like the rest of the specifications.

Use of ballot machines in voting for presidential electors. Report of Atty.-Gen. (1904), 398.

Use of voting machines.—A voting machine to be used at a general election must be so constructed and operated as to accurately take and register the will of the voter and it is the duty of the election officers to see that it is competent for that purpose. Matter of Penner (1912), 77 Misc. 634.

§ 393. Adoption of voting machine.

The board of elections of the city of New York, the common council of any other city, the town board of any town, or the board of trustees of any village may adopt for use at elections any kind of voting machine approved by the state board of voting machine commissioners, or the use of which has been specifically authorized by law; and thereupon such voting machine may be used at any or all elections held in such city, town or village, or in any part thereof, for voting, registering and counting votes cast at such elections. Voting machines of different kinds may be adopted for different districts in the same city, town or village.

Derivation: Election Law, § 163, as added by L. 1899, ch. 466, § 1, and amended by L. 1901, ch. 530, § 3.

A purchase of voting machines by a city involves an appropriation of money and must be accomplished in accordance with the provisions of the city charter. The statute expressly authorizes the local authorities of a city to determine whether or not an expenditure for voting machines shall be made and the taxpayers have no voice in the matter. *People ex rel. Voting Machine Co. v. City of Geneva*, (1904) 98 App. Div. 383, 90 N. Y. Supp. 275.

Provision where machines break during the progress of the election. Report of Atty.-Gen., (1903) 466.

§ 394. Experimental use of voting machine.

The authorities of a city, town or village authorized by the last section to adopt a voting machine may provide for the experimental use, at an election in one or more districts, of a machine which it might lawfully adopt, without a formal adoption thereof; and its use at such election shall be as valid for all purposes as if it had been lawfully adopted.

Derivation: Election Law, § 164, as added by L. 1899, ch. 466, § 1.

§ 395. Providing machines.

The local authorities adopting a voting machine shall, as soon as practicable thereafter, provide for each polling place one or more voting machines in complete working order, and shall thereafter preserve and keep them in repair, and shall have the custody thereof and of the furniture and equipment of the polling place when not in use at an election. If it shall be impracticable to supply each and every election district with a voting machine or voting machines at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election district or districts within the city, town or village as the officers adopting the same may direct.

Derivation: Election Law, § 165, as added by L. 1899, ch. 466, § 1.

rent for machines.

authorities on the adoption and purchase of a voting machine for the payment therefor in such manner as they may direct of the locality and may for that purpose issue bonds or other obligations which shall be a charge on the property of the locality. Such bonds, certificates or other obligations may be sold at such time or times as the authorities may direct but shall not be issued or sold at less than par.

§ 166, Election Law, § 166, as added by L. 1890, ch. 460, § 2.

of ballots.

Ballots shall be printed in black ink on clear, white material. The ballot shall be printed in a plain, clear type as the authorities may permit. The party emblem for each political party represented, which has been duly adopted by such party in accordance with the constitution, and the party name or other designation shall be printed on the ballot, in case of presidential electors, to the left of each name.

Each party may be further distinguished by a stripe or other emblem, which shall be adopted in the same manner as the party emblem. The order of the lists or names of candidates or organizations shall be arranged as provided by the constitution, except that they may be arranged either vertically or horizontally.

When the same person has been nominated for the same office at the election by more than one party or independent organization, the name of the person shall be printed on the ballot in the chapter of all the names of the candidates for that office, and the name shall appear on the ballot of each party or organization.

But in the case of a person so nominated, the name of the party or organization casting the highest number of votes for governor at the election of a governor shall be at the left of or above the name of the person, and the names and emblems of the other parties shall follow in the same order as the relative party vote for governor at each election. If the column be horizontal and downward vertical.

PRINTING OF BALLOTS by county clerk where machines are used. Report of Atty.-Gen., (1902) 372.

§ 399. Number of official ballots.

Four sets of ballots shall be provided for each polling place for each election for use in the voting machine.

DERIVATION: Election Law, § 169, as added by L. 1899, ch. 464, § 1.

§ 400. Preparation of voting machine for election.

The board of elections for each county and the city of New York in which voting machines are to be used, shall cause the proper ballot labels to be placed on the machines corresponding with the sample ballots herein provided for, and the machine in every way put in order, set, and arranged, ready for use in voting at such election; and, for the purpose of so labeling, putting in order, setting and arranging the machine, shall employ one or more competent persons who shall be known as the voting machine custodian, or custodians, who shall be sworn to perform their duties honestly and faithfully, and for such purpose shall be considered as officers of election, and shall be paid for the time spent in the discharge of their duties, in the same manner as election officers are paid. In cities where there are more than twenty voting machines, more than one custodian shall be appointed. They shall be selected from the two political parties entitled to representation on a board of election officers. Said custodian, or custodians, shall, under the direction of said board or officer having charge and control of the election, cause the machine to be so labeled, put in order, set, arranged, and delivered to the polling place of the election district in which the election is to be held, together with all furniture and appliances necessary for the proper conducting of the election, at least one hour before the time set for opening the polls on election day. In preparing a voting machine for an election, the custodian shall, according to the printed directions furnished, arrange the machine and the ballots therefor so that it will in every particular meet the requirements for voting and counting at such election, and thoroughly test the same. Before preparing the voting machine for any election written notice shall be mailed to the chairman of the city, or town committee of at least three of the principal political parties, stating the time and place where machines will be prepared, at which time one representative of each of such political parties, shall be afforded an opportunity to see that the machines are in proper condition for use in the election; such representatives shall be sworn to faithfully perform their duties and shall be regarded as election officials. It shall not interfere with the custodians or assume any of their duties. When a machine has been so examined by such representatives it shall be sealed with a numbered metal seal. Such representatives shall certify: to the number of the machine; if all of the

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be set at 000; and the number registered on the
if one is provided, and on the seal. After the
machines, an officer or officers or somebody duly
than the person who has prepared them for the
et each machine, and report in writing if all
counters are set at zero (000), and the mac
all respects in good order for the election and
number registered on the protective counter, if
and with the number on the seal. When a voti
been properly prepared for election, it shall be
ing, and sealed; and the keys thereof shall be de
or official having charge and control of electi
a written report made by the custodian of the n
urnished to him, stating that it is in every way p
or the election. All voting machines shall be
polling places in charge of an authorized offici
to their delivery in good order. After the n
delivered and set up ready for use in the electio
e, it shall be the duty of the local authorities
protection against molestation or injury to the m
g machine shall be furnished with a lantern
tute for one, which shall give sufficient light to
to in the booth to read the ballot labels, and
the electi n officers in examining the counters
be prepared in good order for use before the
All voting machines used in any election shall

as shall be necessary for the proper conduct of the election with the machine. Each inspector of election that shall qualify for and serve in the election, shall be paid one dollar for the time spent in receiving such instruction, in the same manner and at the same time as he is paid for his services on election day. No inspector of election shall serve in any election at which a voting machine is used, unless he shall have received such instruction and is fully qualified to perform his duties in connection with the machine, and has received a certificate to that effect from the custodian of the machines; provided, however, that this shall not prevent the appointment of an inspector of election to fill a vacancy in an emergency.

DERIVATION: Election Law, § 169-b, as added by L. 1908, ch. 491, § 2.
AMENDED by L. 1911, ch. 649. In effect July 13, 1911.

§ 402. Instruction of voters before election.

In all places where voting machines are to be used one or more of such machines which shall contain the ballot labels, showing the party emblems and title of offices to be voted for, and which shall so far as practicable contain the names of the candidates to be voted for, shall be placed on public exhibition in some suitable place, in charge of a competent instructor, for three days during the thirty days next preceding the election; but no voting machine which is to be assigned for use in an election shall be used for such public instruction within five days before the election. During public exhibition of any voting machine for the instruction of voters previous to an election, the counting mechanism thereof shall be concealed from view and the doors may be temporarily opened only when authorized by the board or official having charge and control of the elections. Printed instructions how to vote circulated to voters must conform to the instructions approved by the officials providing ballots, and adapted to the machine used.

Derivation: Election Law, § 169-c, as added by L. 1908, ch. 491, § 2.

Use of voting machine for instruction within hall or room where official machine is being used should not be permitted. Report of Atty.-Gen. (1911), vol. 2, p. 211.

§ 403. Independent nominations.

(Repealed by L. 1913, ch. 821, in effect Dec. 17, 1913.)

§ 404. Distribution of ballots and stationery.

The ballots and stationery shall be delivered to the board of inspectors of each election district before ten o'clock in the forenoon of the day next preceding the election.

Derivation: Election Law, § 170, as added by L. 1899, ch. 466, § 1.

§ 405. Tally sheets.

In each election district where voting machines are used, tally sheets shall be printed to conform with the type of voting machine

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form approved by the secretary of state. The designation of letter on the counter for each candidate shall be the candidate's name on the tally sheets.

Re: Election Law, § 171, as added by L. 1899, ch. 466, L. 1908, ch. 491, § 3.

Official ballots.

Official ballots for an election district at which a vote is used, required to be furnished by or to any town or city, shall not be delivered at the time required, or if lost, destroyed or stolen, the clerk of such district board, or the election inspectors of such district, shall be required to prepare, print or write, as near as practicable, official ballots as practicable, and the inspectors shall be required to substitute to be used at the election in the place of the official ballots. Such ballots shall be known as unofficial ballots.

Re: Election Law, § 172, as added by L. 1899, ch. 466, L.

Opening the polls.

Inspectors of election and poll clerks of each district shall be in place therein, at least three-quarters of an hour before the opening of the polls at each election, and shall be required to guard-rail the furniture, stationery and other property for the conduct of the election. The inspectors shall be required to guard-rail the voting machine, bal-

the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged. If the numbers on the seal and protective counter, if one is provided, are found to agree with the numbers on the envelope the inspectors shall proceed to open the doors concealing the counters. Before the polls are open for election, each inspector shall carefully examine every counter and see that it registers zero, and the same shall be subject to the inspection of the official watchers. The machine shall remain locked against voting until the polls are formally opened and shall not be operated except by voters in voting. If any counter for a candidate is found not to register zero (000), the inspectors of election shall immediately notify the custodian, who shall adjust the counter at zero.

Derivation: Election Law, pt. of § 173, as added by L. 1899, ch. 466, § 1, and amended by L. 1901, ch. 530, § 5, and L. 1908, ch. 491, § 4.

§ 408. Independent ballots.

Ballots voted for any person whose name does not appear on the machine as a nominated candidate for office, are herein referred to as irregular ballots. Where two or more persons are to be elected to the same office, and each candidate's name is placed upon or adjacent to a separate key or device, and the machine requires that all irregular ballots voted for that office be deposited, written or affixed in or upon a single receptacle or device, a voter may vote in or by such receptacle or device for one or more persons whose names do not appear upon the machine with or without the names of one or more persons whose names do so appear.

In voting for presidential electors, a voter may vote an irregular ticket made up of the names of persons in nomination by different parties, or partially of names of persons so in nomination and partially of names of persons not in nomination, or wholly of names of persons not in nomination by any party. Such irregular ballot shall be deposited, written or affixed in or upon the receptacle or device provided on the machine for that purpose.

With these exceptions, no irregular ballot shall be voted for any person for any office whose name appears on the machine as a nominated candidate for that office; any irregular ballot so voted shall not be counted. An irregular ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

Derivation: Election Law, pt. of § 173, as added by L. 1899, ch. 466, § 1, and amended by L. 1901, ch. 530, § 5, and L. 1908, ch. 491, § 4.

§ 409. Location of machines; guard-rail.

The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers and watchers. The voting machine shall be placed at least four feet from the poll clerk's table. A guard-rail shall be constructed at least three feet from the machine, with openings to admit voters to and from the machine. The voting machine shall be so located in the polling place that, unless its construction requires otherwise, the ballot labels on the face of the machine can be plainly seen by the election officers and the party

when not in use by voters. The election officers shall not be, or permit any other person to be, in any position, that will permit one to see or ascertain how he has voted. The election officer attending to inspect the face of the machine after each voter has voted, to see that the ballot labels are in their proper place and that the machine has not been injured. During elections the cover of the counter compartment of the machine shall not be removed or opened or the counters exposed except for good reasons, a statement of which shall be made and signed by the election officers and shall be sent with the returns.

Enacted: Election Law, § 174, as added by L. 1899, ch. 466, § 1; L. 1908, ch. 491, § 5.

Order of voting.

At the opening of the polls, the inspectors shall not allow any person to enter within the guard-rail until they have ascertained that he is entitled to vote. Only one voter at a time shall be allowed to enter within the guard-rail to vote. The operating of the machine by the voter while voting shall be secret and shall not be observed by all other persons except as provided by this chapter for assisted voters. No voter shall remain in the machine booth longer than three minutes and if he does not leave it after the lapse of three minutes, he shall be removed by the inspectors.

Enacted: Election Law, § 175, as added by L. 1899, ch. 466, § 2; L. 1913, ch. 821, in effect Dec. 17, 1913.

Assisted voters

be signed by the election officers before the polls are opened, showing the delivery of the keys in a sealed envelope; the number on the seal; the number registered on the protective counter, if one is provided; if all of the counters are set at zero (000); if the public counter is set at zero (000); if the ballot labels are properly placed in the machine. Also a certificate which shall be filled out after the polls have been closed, that the machine has been locked against voting and sealed; the number of electors as shown on the public counters; the number on the seal; the number registered on the protective counter, if one is provided; and that the voting machine is closed and locked. The inspectors' return and statement of canvass shall show the total number of votes cast for each office, the number of votes cast for each candidate, as shown on his counter, and the number of votes for persons not nominated, which shall be certified by the board of inspectors. As soon as the polls of the election are closed, the inspectors of election thereat shall immediately lock the voting machine against voting, and open the counting departments in the presence of the watchers and all other persons who may be lawfully within the polling place, giving full view of all the counter numbers. The chairman of the board of inspectors shall, under the scrutiny of an inspector of a different political party, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the designating number and letter on each counter for each candidate's name, the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the vote on each constitutional amendment, proposition or other question. The counter shall not in the case of presidential electors be read consecutively along the party row or column, but shall always be read along the office columns or rows, completing the canvass for each office. The vote as registered shall be entered by the clerks on the tally sheets in ink, in the same order on the space which has the same designating number and letter. After copying the vote from the tally sheets on the returns, the figures shall be verified by being called off in the same manner from the counters of the machine by an inspector of a different political party. The counter compartment of the voting machine shall remain open until the official returns and all other reports have been fully completed and verified by the election board. During such time any candidate, watcher, or challenger of any party or independent body duly accredited as provided by section three hundred and fifty-two of the election law who may desire to be present shall be admitted to the polling place. The proclamation of the result of the votes cast shall be

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announced in a distinct voice by the chairman of inspectors who shall read the name of each candidate, designating number and letter of his counter, and the vote cast for and against him on such counter; also the vote cast for and against him on submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the vote so announced with the counter dials of the machine. Any necessary corrections shall then and there be made by the chairman, after which the doors of the voting machine shall be closed and locked.

After closing the board shall, with the seal provided for the purpose, secure the operating lever of the machine that the voting mechanism will be prevented from operation.

Election Law, § 178, as added by L. 1899, ch. 466, § 1; L. 1907, ch. 654, § 2, and L. 1908, ch. 491, § 6. L. 1909, ch. 240, L. 1911, ch. 649, and L. 1913, ch. 81, 1913.

Integrity in use of defective voting machines.—When the use of the voting machine complies with the prescribed requirements so as to indicate his choice for any particular office, the vote so cast, is complete. The registry by the machine is as complete as the canvass of written votes. That it failed to work properly, the effect of the act of the elector in the exercise of his right. People ex rel. Deister v. Wintermute, (1909) 194 N. Y. 103.

In 1913 the use of voting machines may make it more difficult to ascertain when the machine works defectively than in cases where the vote is cast by ballot.

against voting, and it shall remain so for the period of three months, except as provided by section four hundred and sixteen of this chapter and except that it may be opened and all the data and figures therein examined upon the order of any court of competent jurisdiction or may be opened by direction of a committee of the senate or assembly to investigate and report upon contested elections of members of the legislature voted for by the use of such machine and such data and figures examined by such committee in the presence of the officer having the custody of such machine. Any candidate shall be entitled on application to the supreme court and on reasonable grounds shown to have any machine in or upon which he was named as a candidate opened and all the data and figures therein examined by him or his authorized agents, but the court shall prescribe such conditions as of notice to other candidates or otherwise as it shall deem necessary and proper. Whenever irregular ballots have been voted, the inspectors shall return all of such ballots in a properly secured sealed package indorsed "irregular ballots," and file such package with the original statement of canvass. It shall be preserved for six months after such election, and may be opened and its contents examined only upon order of the supreme court or a justice thereof, or a county judge of such county, or by direction of such a committee of the senate and assembly if the ballots relate to the election under investigation by such committee, and at the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them.

Derivation: Election Law, § 179, as added by L. 1899, ch. 466, § 1, and amended by L. 1901, ch. 530, § 6, and L. 1908, ch. 491, § 7.

Amended by L. 1916, ch. 537, in effect May 15, 1916.

§ 415. Disposition of keys; opening counter compartment.

The keys of the machine shall be enclosed in an envelope which

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ried by the officials, on which shall be written the machine and the district and ward where it has been securely sealed and indorsed by the election officers. They shall be returned to the officer from whom they were taken, and the number on the seal and the number registered on the machine, if so provided, shall be written on the envelope. All keys for voting machines shall be kept by the officials having them in charge. Any person, by any provision of law, is entitled to the custody of any machine for any period of time, shall be entitled to the keys of such machine is in his charge. It shall be unlawful for any person to have in his possession any key of a voting machine; and all election officers, or persons having such keys for election purposes, or in the preparation therefor, shall not retain them longer than necessary for such legal purpose. All machines shall be collected as soon after the close of the election as practicable, and the boxes for the machines, shall

give notice in writing to the custodian and to the county chairman of each political party or nominating body that shall have nominated candidates for the election, of the time and place where said re-canvass is to be made; and each of such political parties or nominating bodies may send two representatives to be present at such re-canvass. If, upon such re-canvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the county board of canvassers, or said committee thereof, with the assistance of the custodian of said machine, shall, in the presence of the inspectors of election and the authorized representatives of the several said political parties or nominating bodies, unlock the voting and counting mechanism of said machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the returns from said machine. Before testing the counters they shall be reset at zero (000) after which each counter shall be operated at least one hundred times. After the completion of said examination and test, the custodian shall then and there prepare a statement in writing giving in detail the result thereof, and said statement shall be witnessed by the persons present and shall be filed with the secretary of the county board of canvassers. But nothing contained in this section shall authorize any change in the returns filed by inspectors of election in any election district nor authorize any board of canvassers in any wise to consider or act upon any re-canvass of votes made pursuant thereto.

Derivation: Election Law, § 179-b, as added by L. 1908. ch. 491, § 8.

Amended by L. 1916, ch. 537, in effect May 15, 1916.

When mandamus will issue directing correction of returns and recanvass. A mistake by the inspectors of election in reading the vote for mayor as shown on a voting machine was discovered after the machine had been locked and the official returns sealed, but before the inspectors of election had filed

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with the commissioners of election. The inspectors decidedly make no change in the return, but explained their reasons. They also failed as required by section 412 to certify the number of votes as shown on the public counter of the machine. If such had been done, it would have appeared that their returns were votes for the candidates for mayor than voters. The return shown on the face of the return the county board of canvassers recanvassed of the vote. This section contains provisions for the vote on election machines under the direction of the canvassers whenever it shall appear that there is a discrepancy in any election district. In this case if the inspectors had certified the total number of votes as shown on the machine, a discrepancy in the returns would have appeared, and they would have been required by mandamus to make a correct return. *Matter of People v. Board of Election Commissioners*, 156 N. Y. 421, aff'g 151 App. Div. 407, 156 N. Y. Supp. 837.

Application of other articles and penal law.

The provisions of the other articles of this chapter apply to voting by voting machines, except as hereinafter provided. The provisions of the penal law and of this chapter shall apply to elections with

Derivation: Election Law, § 180, as added by L. 1890, ch. 460, § 1, and amended by L. 1908, ch. 491, § 9.

Examination of voting machines.—The provisions of this section are not broad enough to warrant the granting of an order for the examination of voting machines analogous to an order for the examination of ballot boxes under § 374. *Matter of Thomas* (1915), 216 N. Y. 426, rev'g 171 App. Div. —; see 92 Misc. 483, 150 N. Y. Supp. 43.

§ 418. When ballot clerks not to be elected.

Ballot clerks shall not be elected or appointed for any district for which a voting machine shall have been adopted, and which will be supplied and ready for use at the next election to be held therein.

Derivation: Election Law, § 181, as added by L. 1890, ch. 460, § 1.

§ 419. Number of voters in election districts.

For any election in any city, town or village in which voting machines are to be used, the election districts in which such machines are to be used may be created by the officers charged with the duty of creating election districts, so as to contain as near as may be four hundred and fifty voters each. Such redistricting or redivision may be made at any time after any November election and on or before August fifteenth following, to take effect on the sixth Wednesday before the next general election. Where such redistricting or redivision shall be made in any town, the board making the same shall, on or before September first following, appoint from the inspectors of election then in office (if sufficient therefor are then in office, and if not, from persons not in office, sufficient to make up the requisite number), to take effect on or before the first day of registration thereafter and not earlier than the second Wednesday following the next fall primary, four in-

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election for each election district thus created, equally divided between the two parties entitled to said boards of inspectors. Thereafter no redistribution districts shall be made for elections by such boards. At some general election the number of votes cast in each of such districts shall exceed five hundred. But if a town in which such machines are used may alter the boundaries of the election districts at any time after a general election or before August fifteenth following, to take effect on Wednesday before the next general election, the number of such election districts in such town shall be increased or reduced, and the number of votes to be cast in each of such districts whose boundaries are so altered shall not exceed

the number of votes cast in the last general election, division or alteration of an election district shall be necessary by the creation, division or alteration of such districts or city or rendered necessary or occasioned by

Consolidators' note.— The provision that after a redistricting of election districts in a town two of the inspectors of election “shall belong to and be of the same political faith and opinion on state and national issues as one of the two political parties which at the last preceding general election for state officers shall have cast the greatest number of votes *in said town*, and the other two “inspectors” shall belong to and be of the same political faith and opinion on state and national issues as the other of said two political parties,” is omitted as unconstitutional.

The constitutional requirement (art. 2, § 6) is that “all laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes.” The provision in question seems to violate this constitutional requirement in that it adopts the vote in the *town* rather than in the *state* as the test. The Constitution, it should be noted, lays down no rule for determining how the highest and next highest number of votes are to be determined — whether the vote upon a single office shall be taken as the basis of comparison between all parties, and if so, what office, or whether the vote for the candidate who polls the greatest vote shall be deemed the vote of the party, or whether only straight ballots shall be included in estimating the number, or whether some split ballots shall be included and some excluded, or how it is to be determined whether any given vote is cast by the “political party.” It is obvious that the vote for any given candidate cannot be an *exact* measure of a party vote, nor can the vote on any particular office be an *exact* measure, though in default of any better measure it is conceivable that either might, for practical purposes, be adopted as such. But whatever the measure, and however the number of votes cast by any given “political party” is to be determined, the Constitution would seem to require, *ex vi terminorum*, that every vote cast by the party anywhere throughout the *state* be counted, in deciding whether its vote was either the highest or the next highest. Suppose in any election the vote in the whole state was in this order, parties A, B and C, but in any given town using voting machines and redistricted under the section under review the party vote stood A, C, B: the Constitution would seem to divide the inspectorships between A and B; this section says they must go to A and C.

In place of this provision, accordingly, the expression used in the earlier section (Election Law, § 13, new § 312) is resorted to, and it is here provided

ators "shall be equally divided between the two parties
law on said boards of inspectors."

added that the statute as it stands is inconsistent with § 10 to the qualification of election inspectors generally and § 1, new § 3a2, which provides for election officers "of the state" and substantially follows the language of the provision already quoted omitting, like it, any provision that next highest number of votes "are to be determined" like it, the vote in the state the test. It is also the general provision relating to inspectors in towns (Election Law § 102), which provides that appointments are to be made "by the two political parties entitled to representation on a ward committee" and which thus refers by inference to the general

Constitution and of section 11, subdivision 1, and also
the vote in the state. Why the Legislature adopted a
law which use voting machines different from that
adopted a different basis in the year town before
(which is what the old section does) does not appear.
Provisions referred to may be read in connection
with as found in Election Law, § 32, (Primary Elec-
tion Law, § 120 (Election Law, old § 58),
§ 44, 45, § 12, 66, 72 and 73 (Primary Election Law, § 4,
old 1, § 10, 13 and 14 respectively) and new section
§ 303 Election Law, §§ 61, 11 and 2 par. d and e. § 1
and new section 473 Metropolitan Elections District
on 309 (Soldiers' and Sailors' Election Law, § 103. In
city and in several of the other sections just cited the
adopted as the text, but with one exception the provision
relate to officers in charge of registration, the pollu-
tion of the constitutional requirements. The exception
is Election Law, § 5, subd. 1, new § 120, as to which
it is to be conceded not as containing a misdescrip-
tion, but as adding something to the Election Law and as

preparing and arranging the voting machines for elections. The term "protective counter" shall mean a separate counter built into the voting machine which cannot be reset, which records the total number of movements of the operating lever.

Derivation: Election Law, § 183, as added by L. 1899, ch. 466, § 1, and amended by L. 1908, ch. 491, § 9.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

The fact that voting machines used at an election held to determine a question submitted had upon them the words "Yes" and "No" instead of the words "For" and "Against" does not render invalid the votes registered by such voting machines, where there is no pretense that any elector was thereby deceived. *People ex rel. Williams v. Board of Canvassers* (1905), 105 App. Div. 197, 94 N. Y. Supp. 996, aff'd 183 N. Y. 538.

§ 421. Saving clause.

Nothing herein shall be deemed to prohibit the adoption or use of any voting machine at any election within any town, city or village that has adopted the same prior to the tenth day of December, nineteen hundred and thirteen, if the mechanism is or may be made adjustable to conform to the grouping of candidates under the title of the office, but the method of conducting an election therewith shall be in the manner prescribed by this chapter.

Derivation: Election Law, pt. of § 184, as added by L. 1899, ch. 466, § 1.

Amended by L. 1913, ch. 821, in effect Dec. 17, 1913.

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ARTICLE 12.

BOARDS OF CANVASSERS.

Organization of county board of canvassers.
Production of returns and tally sheets.
Correction of clerical errors in election district statements.
Mandamus to county or state boards of canvassers to correct proceedings of state board of canvassers upon corrections of county boards.
Mandamus to state board to canvass corrected statements of county boards.
Proceedings upon corrected statements.
Statements of canvass by county boards, preservation of tested, void and wholly blank ballots.
Questions of county boards as to persons elected.
Transmission of statements of county boards to secretary of state and board of elections.
Organization and duties of board of canvassers of the City of New York.
Organization of state board of canvassers.
Returns by state board.
Certificates of election.
Record in office of secretary of state of county officers.

Organization of county board of canvassers.
The supervisors of each county shall be the county board of canvassers. The county board of canvassers of each county of New York shall consist of the members of the board of New York elected as such within the county. The board of canvassers shall also within their respective

tend, the members of the board then present shall elect the chairman of the board and adjourn to some convenient hour of the next day. If such board or a majority thereof, shall fail or neglect to meet within two days after the time fixed for organizing such board, the supreme court, or any justice thereof, or county judge within such county, may compel the members thereof by writ of mandamus to meet and organize forthwith.

Derivation: Election Law, § 130, as amended by L. 1897, ch. 379, § 21; L. 1901, ch. 208, § 1; L. 1905, ch. 643, § 22; L. 1908, ch. 105, § 1.

Amended by L. 1910, ch. 432; L. 1916, ch. 537, in effect May 15, 1916.

Consolidators' note.—In the Election Law of 1896, this section constituted the board of supervisors of each county the county board of canvassers for the county, exception, however, being made of the counties of New York and Kings, where the boards of aldermen of the cities of New York and Brooklyn were made the county canvassers, these counties having under the Constitution (art. 3, § 26) no supervisors whatever, as their boundaries coincided with those of the cities. When in 1897 both cities were merged in the "greater New York," the coincidence of city and county lines ceased, and the two counties thereby lost their constitutional immunity from supervisors, and at the same time by L. 1897, ch. 380, the constitutional requirement was complied with by providing that members of the municipal assembly should be elected "as such and also as supervisors" from the several counties within the city; but their powers "as supervisors" were restricted to (1) acting as county canvassers; and (2) subdividing their counties into assembly districts (a constitutional function). At the same time L. 1897, ch. 379, amended this section by eliminating the exceptional provisions for New York and Kings counties, and made the supervisors the county canvassers in every county.

In 1899, article 3, section 26 of the Constitution was amended so as to abolish the office of supervisor in counties within, and less than, a city, and to permit the functions of the office to be devolved upon the local municipal legislature; and later, L. 1901, ch. 466, amended section 1586 of the New York city charter by vesting the powers and duties of the several boards of supervisors of the counties within the city in "the board of aldermen," which board, by virtue of legislation concurrent with the foregoing, succeeded to the former "municipal assembly." It should be noted that from 1897 until 1900, when the constitutional amendment went into effect, the aldermen and members of the common council of the city of New York were actually also elected as supervisors, the ballots reading "for Alderman (or Councilman) and Supervisor," but that since 1900 they have been elected only as aldermen (or councilmen).

This situation has given rise to two claims: (1) that the duties of the county canvassers were devolved upon "the board of aldermen," i. e. the whole board; and (2) that they were devolved upon *only those members of the board who were elected within the county*, in spite of the language of the statute that they "are vested in the board of aldermen." In another aspect the question is whether L. 1897, ch. 380, was in effect repealed or not by the constitutional amendment of 1899, with or without the subsequent act of 1901. For the complete argument on both sides of the question reference is made to the briefs of counsel in *Matter of Scofield v. Board of Aldermen*, reported in 102 App. Div. 358, also to the conflicting opinions of successive corporation counsels and to the communications addressed to the corporation counsel, forming a part of the record of that case. The Supreme Court at special term, in an unconvincing opinion by Marean, J., held that the county canvassers were only the aldermen elected from the county. The appellate division of the second department did not pass on the question, disposing of the case on the ground that the party initiating the proceedings had not the right to maintain them. The question may therefore fairly be said to be an open one. At all events the case exhibits a serious omission by the Legislature.

That omission is here supplied by changing the sentence reading "The county board of canvassers of counties wholly or partly within the city of New York shall be the city board of canvassers of the city of New York within their respective counties," to "The county board of canvassers of each county within the city of New York shall consist of the members of the board of aldermen of the city of New York elected as such within the county. The

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wards of canvassers shall also within their respective cities of canvassers of such city."

If this charge is, briefly, to give express warrant for violation and to supply the legislative sanction, presumably in a confirmation of the former method of canvass, in *McCann's* opinion, also to settle the dispute in the *Scott* upon by the appellate division, whether the president members of the canvassing boards, since they are not, members of the board of aldermen

of Board. — In case the county clerk refuses to perform, the remedy is not confined to the procuring of a compel performance, but the board has power to declare as secretary *pro tem*. *People ex rel Daley v Rice*, 14 L. R. A. 643.

If a county clerk as secretary to the Board of County Commissioners, is merely ministerial, and he cannot assume to sit in judgment on that body. *People ex rel Daley v Rice*, (1892) 129 N. Y. 43.

ent. — Where a board of canvassers of a town are to perform their duty on a particular date, and the time mentioned within which the duty must be performed is not to adjourn such a meeting and even if the meeting is adjourned, to assemble again and perform the undischarged duty. *Smith v Schielein*, (1884) 95 N. Y. 124.

Section of returns and tally sheets.

A such board of county canvassers shall have an officer with whom they were filed shall deliver to the canvassers all the returns with tally sheets and original statements of canvass received from the precincts or districts within the county for which said board

(1892) 44 N. Y. St. Rep. 738, 19 N. Y. Supp. 206; *People ex rel. Derby v. Rice*, (1891) 129 N. Y. 461. *Felt's Case*, (1871) 11 Abb. Pr. (N. S.) 203.

The county board cannot estimate the number of votes cast from the sample ballots attached to the inspectors' certificates instead of from the face of the return. *People ex rel. Noyes v. Board*, (1890) 34 N. Y. St. Rep. 8; *Matter of Noyes*, (1890) 34 N. Y. St. Rep. 127; *People ex rel. Noyes v. Board*, (1892) 126 N. Y. 392. It should be noted that the present law does not require sample ballots to be attached to the returns made by the inspectors.

It is clearly the intention of the statute that the official statement made after and in accordance with the proclamation of the result of the canvass, which is required to be certified to as correct over the signatures of the inspectors, shall form the basis of the estimate of the board of canvassers. *Matter of Noyes*, 34 N. Y. St. Rep. 127. But see *Matter of Stewart, post*.

Tally sheet as original record.—The tally sheet being the original entry of the casting and canvassing of a vote under the Election Law is intended by the legislature to furnish a contemporaneous official record of the actual count which shall control in case of any discrepancy between it and the clerical statement made from it by the inspectors after the completion of the canvass and for the purpose of convenience. *Matter of Stewart*, (1898) 155 N. Y. 545, aff'g 24 App. Div. 201, 48 N. Y. Supp. 957.

The original statement prescribed by section 111 (now § 373) of the Election Law is called an original for the reason that it is necessary to attach to it the void ballots and those protested as marked for identification, but it is not an original document in any other sense and is a purely ministerial act of the inspectors that cannot control the tally sheet of which it is an abstract. *Matter of Stewart*, (1898) 155 N. Y. 545, aff'g 24 App. Div. 201, 48 N. Y. Supp. 957.

The provision for the canvass of votes from the inspectors' statements made by section 131 (now § 431) of the Election Law, while it contemplates that the board of county canvassers shall act upon such statements without recourse to the tally sheets, when the statements are unchallenged as to their accuracy, does not make those statements the best evidence of the final result of the election in case they are attacked for mistake or fraud. *Matter of Stewart*, (1898) 155 N. Y. 544, aff'g 24 App. Div. 201, 48 N. Y. Supp. 957.

The court cannot compel the county board of canvassers to change the returns of a general election so as to show separately the number of votes cast for the office of governor in the name of and under the emblem of the political party whose candidate for the office was the same as that of another political party, in order that it shall appear from the returns filed in the office of the secretary of state whether or not such first mentioned political party polled ten thousand votes for state officers at such election, and is thus entitled to make its nominations for the next year by convention. *People ex rel. Boies v. Board of Canvassers*, (1903) 79 App. Div. 514, 80 N. Y. Supp. 25.

§ 432. Correction of clerical errors in election district statements.

If, upon proceeding to canvass such votes, it shall clearly appear to any county board of canvassers that certain matters are omitted from any such statement which should have been inserted, or that any merely clerical mistakes exist therein, they shall have power, and such power is hereby given, to summon the election officers whose names are subscribed thereto before such board, and such election officers shall forthwith meet and make such correction as the facts of the case require; but such election officers shall not change or alter any decision before made by them, but shall only cause their canvass to be correctly stated. The board of county canvassers may adjourn from day to day not exceeding three days in all, for the purpose of obtaining and receiving such corrected statements.

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Election Law, § 132.

L. 1913, ch. 821, in effect Dec. 17, 1913.

of county canvassers has only ministerial duties to perform and cannot enter upon a judicial investigation of the genuineness of a return which the law required to be regular. If a return is favored by the presumption of official honesty and the returns are not regular, the board should send them back for correction. *People ex rel Russell v. Board*, (1890) 34 N. Y. St. Rep. 127; *People ex rel Noyes v. Board*, (1890) 34 N. Y. St. Rep. 127; *People ex rel Noyes v. Board*, (1890) 34 N. Y. St. Rep. 127; *People v. Cook*, (1853) 8 N. Y. 67; *People ex rel Deu*, 64 How. 337; *Matter of Felt*, (1871) 11 Abb. (N. S.) 31; *Slyck*, 1825) 4 Cow 297; *Ex parte Heath*, (1842) 3 J. Casers, (1882) 12 Abb. N. C. 84.

of state canvassers act ministerially in the preparation of certificates. Their judicial power extends no further than matters of public notoriety. The Supreme Court alone can annul the returns of the canvassers and the ballot box and the election of the voters by evidence *abunde* the return. *People v. N. Y. 67*, aff'g 14 Barb 259.

mandamus will issue to compel the canvassing board to correct returns, for correction, returns which do not show up a particular person received any votes whatsoever, and a statement of the number of general ballots protested as "invalid." *People ex rel Ranton v. City of Syracuse*, (1895) 100 N. Y. 881.

will lie to compel the county board to send back to the canvassers returns upon which the names of candidates are included. *People ex rel Munro v. Board*, (1892) 129 N. Y. 881.

inspectors to correct return. When the state district inspectors states a less number of votes for a candidate than that shown by the unquestioned tally sheet the board may be required by mandamus, on the petition of the candidate, to exercise the power conferred by section 132 of the Election Law.

to reject any vote that comes to it certified in due form by the local inspectors as having been cast at the election. *Matter of Woods*, (1893) 5 Misc. Rep. 575, 26 N. Y. Supp. 169.

§ 433. Mandamus to county or state boards of canvassers to correct errors.

The supreme court may, upon affidavit presented by any voter, showing that errors have occurred in any statement or determination made by the state board of canvassers, or by any board of county canvassers, or that any such board has failed to act in conformity to law, make an order requiring such board to correct such errors, or perform its duty in the manner prescribed by law, or show cause why such correction should not be made or such duty performed. If such board shall fail or neglect to make such correction, or perform such duty, or show cause as aforesaid, the court may compel such board, by writ of mandamus, to correct such errors or perform such duty; and if it shall have made its determination and dissolved, to reconvene for the purpose of making such corrections or performing such duty. Such meeting of the board of state or county canvassers shall be deemed a continuation of its regular session, for the purpose of making such corrections, or otherwise acting as the court may order, and the statements and certificates shall be made and filed as the court shall direct, and shall stand in lieu of the original certificates and statements so far as they shall vary therefrom, and shall in all places be treated with the same effect as if such corrected statements had been a part of the originals required by law.

A special proceeding authorized by this section must be commenced within four months after the statement or determination in which it is claimed errors have occurred was made, or within four months after it was the duty of the board to act in the particular or particulars as to which it is claimed to have failed to perform its duty.

Derivation: Election Law, § 133.

This section in effect re-enacts chapter 460 of the Laws of 1880, heretofore repealed, authorizing the Supreme Court in proceedings by writ of mandamus to correct errors in the determination of boards of county canvassers and to compel them to reconvene and declare a truthful result of the returns before them. *People v. Canvassers*, (1882) 64 How. 201, 367, 357, 334; *Kortz v. Canvassers*, (1882) 12 Abb. N. C. 84; *People ex rel. Noyes v. Board*, (1890) 34 N. Y. St. Rep. 8; *Matter of Noyes*, 34 N. Y. St. Rep. 127; *People ex rel. Noyes v. Board*, (1891) 126 N. Y. 392. But see *People v. Supervisors*, 12 Barb. 217, holding that a mandamus will not lie to compel the board of canvassers after it has performed its duties and has adjourned *sine die* to reassemble and correct its decision.

When refusal of mandamus proper. — When a relator seeks a determination by mandamus of a canvassing board that he has been elected to an office in the possession of another, claiming title thereto, who is not a party to the proceeding, the court may refuse the writ as a matter of discretion, leaving him to his remedy in the action provided by law for the determination of a title to an office. *Matter of Hart*, (1899) 159 N. Y. 278.

A mandamus will not lie to compel the board of county canvassers to canvass the returns before them when it is proven to the court that such returns are illegal because of a violation of the statute by the inspectors in receiving and counting certain votes. *People ex rel. Munro v. Board*, (1892) 129 N. Y. 469.

The Supreme Court at Special Term cannot issue a writ of peremptory mandamus which is by force of its terms and commands, in effect, an

order which restrains the board of state canvassers engaged in the performance of, or about to perform, a duty imposed by the statute. Code Civ. Proc. § 685; *People ex rel. Derby v. Rice*, (1892) 129 N. Y. 461.

The county board is merely an administrative body. — It cannot exercise the high judicial function of passing upon the constitutionality of a statute. Nor will the court direct the board to do what they have no power in themselves to do, but must confine itself to correcting errors they may have made. *Matter of Woods*, (1893) 5 Misc. Rep. 575, 26 N. Y. Supp. 100.

An application under this section to compel inspectors of election to correct a canvass by striking out the votes given by women in a school commissioner district on the ground that the statute by which women were permitted to vote (L. 1892, ch. 214) is unconstitutional, should be denied. *Matter of Woods*, (1893) 5 Misc. Rep. 575, 26 N. Y. Supp. 100.

The court has no inherent power to review the action of election officers or boards of canvassers, but before it can set must find authority to do so in the Election Law. *People ex rel. Cantor v. County Board of Canvassers*, (1915), 170 App. Div. 889, 154 N. Y. Supp. 373.

The court has no power to interfere by mandamus with the canvassing of returns regular upon their face by the county board when it is simply alleged that fraud has been committed in the counting of votes by the inspectors. If there were two returns, one true and the other false, the court might compel the board to canvass the true one. *People ex rel. Gregg v. Board*, (1889) 54 Hun 595, 8 N. Y. Supp. 289.

Until the legal presumption is overcome that state officers will perform their statutory duties, a peremptory mandamus will not lie. *People ex rel. Derby v. Rice*, (1892) 129 N. Y. 461.

The question whether fraud has been committed in making the returns cannot be properly tried in a proceeding to compel the board of county canvassers to canvass the returns. This question can only be tried in a contest before the proper tribunal. *People ex rel. Hazel v. Board*, 58 How. 141.

The court should not permit to be canvassed by the state board a return containing the result of an illegal and erroneous canvass by the board of county canvassers in excess of its jurisdiction. *People ex rel. Daley v. Rice*, (1892) 129 N. Y. 449, 14 L. R. A. 643.

A mandamus is proper directing the board of county canvassers not to canvass irregular returns. *People ex rel. Russell v. Board*, (1887) 46 Hun 390, 20 Abb. N. C. 19.

Where an official board acts only ministerially the court has a clear right to direct its ministerial action. *Matter of Noyes*, (1890) 34 N. Y. St. Rep. 127.

For the settlement of contests over elections courts exist, with adequate powers to investigate the causes of complaints, and for that end to take proofs and to judge accordingly. Boards of canvassers have no such powers. *People ex rel. Derby v. Rice*, (1892) 129 N. Y. 461.

The public has an interest, quite as great, perhaps, as an individual candidate, in the result of an election, and any citizen has the right to invoke the aid of the court in compelling boards of canvassers to perform their official duties. *People ex rel. Daley v. Rice*, (1892) 129 N. Y. 449, 14 L. R. A. 643.

A peremptory writ of mandamus is proper to compel the board of canvassers to reject a second return. *People ex rel. Fiske v. Devermann*, (1895) 83 Hun 181, 31 N. Y. Supp. 593.

What reviewable by mandamus. — Upon an application for a writ of mandamus to require the board of canvassers of a county to reconvene and correct alleged errors in its canvass of the votes cast upon a question submitted, the court has no power to decide whether the question as printed on the ballot was in the form prescribed by law. *People ex rel. Williams v. Board of Canvassers*, (1905) 105 App. Div. 197, 94 N. Y. Supp. 996, aff'd 183 N. Y. 538.

§ 434. Proceedings of state board of canvassers upon corrected statements of county boards.

When a new or corrected statement or certificate, made by a board of county canvassers under the provisions of the preceding section, shall vary from the original statement or certificate with reference to votes for the offices of governor, lieutenant-governor, judge of the

court of appeals, justice of the supreme court, secretary of state, comptroller, state treasurer, attorney-general, state engineer and surveyor, senator or representative, in congress, or any of them, the county clerk, or other officer with whom the same is filed, shall forthwith prepare and transmit certified copies thereof to the officials mentioned in section four hundred and thirty-nine of this article, in the manner therein prescribed. The secretary of state shall thereupon file in his office the certified copy received by him, and obtain from the governor and comptroller the certified copies received by them, or either of them, and file the same in his office. He shall then, and within five days after any such certified copy has been received by him, appoint a meeting of the state canvassers to be held at his office, or the office of the state treasurer or comptroller, and the said board of state canvassers shall, from such certified copies, proceed to make a new statement of the whole number of votes given at the election referred to in such statement for the various offices above mentioned, or any of them, so far as the number of votes for any particular office or candidate has been changed by such new or corrected statement in the manner provided by section four hundred and forty-two of this article. Upon the new or corrected statement thus made, the said board of state canvassers shall then proceed to determine and declare what person or persons whose votes are affected by such new or corrected statement have been, by the greatest number of votes, duly elected to the various offices, or any of them, and the statement, certificate and declaration thereupon made shall stand in lieu of the original statement, declaration and certificate so far as the latter are changed by the former.

Derivation: Election Law, pt. of § 134.

§ 435. Mandamus to state board to canvass corrected statements of county boards.

The supreme court shall, upon application of a candidate interested in the result of such new or corrected statement, or of any voter in the county from which such statement came, and upon proof by affidavit that the same has been made and filed as herein provided, and that the state board of canvassers has neglected or refused to act thereon within the time above prescribed, require said board to act upon such new or corrected statement, and canvass the same as above provided, or show cause why it should not do so; and in the event of the failure of such board to act upon such new or corrected statement and canvass the same, or show cause as aforesaid, the court may compel such board by writ of mandamus to act upon and canvass such new or corrected statement, and make a statement, certificate and declaration in accordance therewith; and if the state board of canvassers shall have made a determination, and adjourned or dissolved before receiving such new or corrected statement, the court may compel such board to reconvene for the purpose of carrying out its order and direction; and for that purpose the meeting of said board shall be deemed a continuance of its regular session.

Derivation: Election Law, pt. of § 134.

proceedings upon corrected statements.

Board of canvassers and the secretary of state have the same powers and discharge the same duties in relation to new or corrected statements, that they have in relation to original statements.

Amended Election Law, pt. of § 134

Editors' note.—The old section charged the officers in relation to powers and duties "with reference to statements in relation to the election of electors that they have and are charged with under the provisions of the constitution and laws of this State." Having been split up, this is now made to charge them in relation to powers and duties "with reference to new or corrected statements and original statements."

Statements of canvass by county boards; preserve protested, void and wholly blank ballots.

At the completion by a county board of canvassers of the canvass of which original statements of canvass are required to be delivered to them, by the boards or officers who may have been filed by the inspectors of elections, separate statements thereof as follows:

Statement of all such votes cast for each office of elector and vice-president of the United States.

Statement of all such votes cast for each state or territory in the case of a candidate for governor who was elected by the electors or more parties or independent bodies, and the number of votes cast for him as the candidate for elector in each body in which he was nominated.

7. One statement as to all the votes, if any, so cast upon any proposition or question upon which only the voters of such county were entitled to vote at such election.

8. In the counties wholly or partly within the city of New York, the respective county boards shall make a separate statement as to the votes, if any, so cast upon any proposition or question upon which only the voters of such city were entitled to vote at such election in such county or portion thereof.

Each such statement shall set forth, in words written out at length, all votes cast for all the candidates for each such office; and if any such office was to be filled at such election by the voters of a portion only of a county, all the votes cast for all the candidates for each office in any such portion of a county, designating it by its proper district number or other appropriate designation; the name of each such candidate; the number of votes so cast for each, and, in the case of a candidate for governor who was nominated by two or more parties or independent bodies, the number separately stated of votes cast for him as the candidate of each party or independent body by which he was nominated; and the whole number of votes so cast upon any proposed constitutional amendment or other proposition or question, and all the votes so cast in favor of and against the same respectively. In the counties wholly or partly within the city of New York the respective county boards shall make a separate statement of the votes cast for all the city offices voted for by the voters of such city or any portion thereof, within such counties.

The statements required by this section shall each be certified as correct over the signatures of the members of the board, or a majority of them, and shall be filed and recorded in the office of the board of elections of each county, except in the counties wholly within the city of New York, and in such counties they shall be filed in the office of the county clerk. When the whole canvass shall be completed, all original statements of canvass used thereat shall be filed in the office of the secretary of the board, who shall file a report of such canvass with the board of supervisors, except in counties wholly within a city of the first class. The original statement of canvass not used at the canvass and the packages of protested, void and wholly blank ballots shall be retained in the office in which or by the officer with whom they were filed, except as otherwise expressly provided by law. The packages of protested, void and wholly blank ballots shall be retained inviolate in the office in which they are filed subject to the order and examination of a court of competent jurisdiction, or to examination

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committee of the senate or assembly to investigate and report on the result of the election of member of the legislature who was elected at such election, and may be destroyed six months from the time of the completion of such investigation, unless otherwise ordered by a court of competent jurisdiction while a committee examination be pending.

Election Law, § 135, as amended by L. 1897, ch. 379, and by L. 1913, ch. 821; L. 1914, ch. 244; L. 1916, ch. 537, in

statement returned by a board of county canvassers to the assembly, shall not contain anything save the whole number of votes cast for each candidate, the names of the candidates, and the number of votes cast for each candidate. The whole number must be made up solely from the original statements returned by the inspectors in each and all of the election districts.

People ex rel. Derby v. Rice, (1892) 120 N. Y. 461. The board of county canvassers has no authority to transmit any paper attacking the validity of the election, and if transmitted, the state board has no power to consider it. People ex rel. Derby v. Rice, (1892) 120 N. Y. 461.

It is held in People ex rel. Daley v. Rice, (1892) 120 N. Y. 441, that the county clerk, acting as secretary to the board of canvassers, is not authorized to sign and attest the statements of canvassers. The number could be appointed by the board to perform the duty. It should be noted that the present law does not require the county clerk to sign the statements. The signatures of a majority of the board of canvassers are required.

§ 438. Decisions of county boards as to persons elected.

Upon the completion of the statements required by the preceding section the board of canvassers for each county shall determine what person has by the greatest number of votes been so elected to each office of member of assembly to be filled by the voters of each county for which they are county canvassers if constituting one assembly district, or in each assembly district therein, if there be more than one, and each person elected by the greatest number of votes to each county office of such county to be filled at such election, and if there be more than one school commissioner district in such county, each person elected by the greatest number of votes to the office of school commissioner to be filled at such election in each district. The board of elections of the county of Hamilton shall forthwith transmit to the board of elections of the county of Fulton a certified copy of the statement so filed and recorded in its office of the county board of canvassers of Hamilton county as to all the votes so cast in Hamilton county for all the candidates and for each of the candidates for the office of member of assembly of the assembly district composed of Fulton and Hamilton counties; and the board of elections of Fulton county shall forthwith deliver the same to the Fulton county board of canvassers, who shall from such certified copy, and from their own statement as to the votes so cast for such office in Fulton county, determine what person was at such election elected by the greatest number of votes to such office. Such board of each county shall determine whether any proposition or question submitted to the voters of such county only has by the greatest number of votes been adopted or rejected.

All such determinations shall be reduced to writing and signed by the members of such board, or a majority of them, and filed and recorded in the office of the board of elections of such county, except in the counties wholly within the city of New York, and in such counties the county clerk, who or which shall each cause

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thereof, and of the statement filed and recorded upon which such determination was based, in accordance with the provisions of the laws of 1907 and 1908, chapter six hundred and twenty-one and twenty-two.

The board of elections of each county, except in the city of New York, and in such counties the clerk, shall prepare as many certified copies of the determination of the county board of elections as there are persons declared elected in such county, and shall, without delay, transmit such copies to the persons so declared to be elected, respectively.

Section: Election Law, § 136, as amended by L. 1907, ch. 643, § 23.

Amended by L. 1916, ch. 537, in effect May 15, 1916.

Section of votes cast for persons of similar names.—A board of elections cannot determine that the votes cast for several names are all intended for the same person, and from the board issue a certificate of election to him, but they should issue the certificate of election to each person for whom a vote was cast.

within five days after the filing thereof in his or its office, transmit by mail one of such copies to the secretary of state, and one to the comptroller of the state. The comptroller shall forthwith upon the receipt thereof deliver such certified copy to the secretary of state. If any certified copy shall not be received by the secretary of state on or before the last day of November next after a general election, or within twenty days after a special election, he shall dispatch a special messenger to obtain such certified copy from the county clerk or board of elections required to transmit the same, and such county clerk or board of elections shall immediately upon demand of such messenger at his or its office make and deliver a certified copy to such messenger who shall, as soon as practicable, deliver it to the secretary of state.

The board of elections of each county, except a county wholly within the city of New York, and in any such county the county clerk, shall transmit to the secretary of state within twenty days after a general election, and within ten days after a special election, a list of the names and residences of all persons determined by the board of county canvassers of such county to be elected member of assembly, or to any county office; and on or before the fifteenth day of December in each year a certified tabulated statement of the official canvass of the votes cast in each such county by election districts for candidates for governor, lieutenant-governor, secretary of state, comptroller, treasurer, attorney-general, state engineer and surveyor and United States senator, or any proposed constitutional amendment or other proposition, at the last preceding general election, to include, in the case of a candidate for governor who was nominated by two or more parties or independent bodies, a separate statement of the number of votes cast for him as the candidate of each party or independent body by which he was nominated.

Upon the filing in the office of the county clerk of a county wholly or partly within the city of New York of a statement of the county board of canvassers as to the votes cast for candidates

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office within such city, such county clerk shall file a certified copy of each such statement and, with the filing thereof in his office, deliver in a sealed envelope a certified copy to the board of elections of the city on or before the fifteenth day of December following in which there shall have been an election for a city or county in which votes were cast in a county within the city. The county clerk thereof shall file with the city clerk a certified copy of the official canvass of the votes cast in such election by election districts for such city. The official canvass by election districts shall, as soon as the same shall be published in the City Record.

Election Law, § 137, as amended by L. 1897, ch. 38, § 1; L. 1901, ch. 95, § 20; L. 1905, ch. 643, § 24; L. 1914, ch. 244, L. 1916, ch. 337, in effect May 13, 1916. — Delay or destruction of election returns, Pen. Law, § 170 (2d post).

Organization and duties of board of canvassers of the city of New York.

of elections of the city of New York shall be the duty of the city clerk of New York of the statements of the

required to be delivered to said board shall not be delivered prior to the meeting and organization of said board, it may adjourn such meeting from day to day not exceeding a term of five days, and it shall be the duty of the secretary to procure from the county clerk of such county the required certified copy of such statement.

Upon the completion of such canvass said board shall make separate tabulated statements signed by the members of such board or a majority thereof, and attested by the secretary, of the whole number of votes cast for all the candidates for each office shown by such certified copies to have been voted for, the whole number of votes cast for each of such candidates, the number of votes cast in each county for them, and if the voters of only a part of a county were entitled to vote for such candidates, the part of such county, and the determination of the board as to the persons thereby elected to such office by the greatest number of votes. The said board shall also make a separate similar tabulated statement of the votes cast upon any proposition or question submitted at the election to the voters of such city only and shall include a determination as to whether such proposition or question by the greatest number of votes has been adopted or rejected.

Each such statement and determination shall be filed and recorded in the office of the board of elections, and the said board shall cause the publication of the same in at least two newspapers within each borough of such city and in the City Record. Upon the filing in the office of the board of elections of such statements and determination the president of the board of elections shall issue and transmit by mail or otherwise a certificate of election to each person shown thereby to be elected, such certificate to be countersigned by the members of the board of elections of the city of New York under the seal of the city of New York.

Derivation: Election Law, § 138, as added by L. 1897, ch. 379, § 26, and amended by L. 1901, ch. 95, § 21.

Where the votes cast for the office of alderman in an aldermanic district of the city of New York have been canvassed by the board of elections in accordance with an order of the Supreme Court directing it to count certain ballots which had been rejected as void, such canvass, when completed finally, determines the question as to what ballots should, and what ballots should not, be counted for such office, subject to a review of the court in a proper action brought to determine the title to the office of the candidate declared elected. When such board has issued its certificate of election to the person entitled thereto, such person's right to the office cannot be questioned by the board of aldermen. *People ex rel. Krulish v. Fornes*, (1903) 79 App. Div. 618, 80 N. Y. Supp. 385, aff'd 175 N. Y. 114.

§ 441. Organization of state board of canvassers.

The secretary of state, attorney-general, comptroller, state engineer and surveyor, and treasurer, shall constitute the state board of canvassers, three of whom shall be a quorum. If three of such officers shall not attend on a day duly appointed for a meeting of the board, the secretary of state shall forthwith notify the mayor and recorder of the city of Albany to attend such meeting, and they shall forthwith attend accordingly, and shall, with the other such officers attending, constitute such board. The secretary of state shall appoint a meeting of such board at his office, or at the office of the treasurer or

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on or before the fifteenth day of December next after such election, and within forty days after each special election, the statements of boards of county canvassers of such election, and certify each member of the board of such meeting, and adjourn such meeting from day to day, not exceeding three days.

§ 139, as renumbered by L. 1897, ch. 32

Canvass by state board.

At such meeting the board shall proceed to canvass the statements of the county board of canvassers of such election was held. If any member of the board dissent from a decision of the board, or shall declare the proceedings of the board to be irregular, and shall state the same, he shall state such dissent or protest in writing, setting forth his reasons therefor, and deliver it to the clerk of the board, who shall file it in his office.

At the completion of such canvass said board shall make and certify statements signed by the members of such board, showing the whole number of votes cast for all the offices shown by such certified copies to have been cast, the number of votes cast for each of such candidates, and if the votes cast in each county for them, and if the votes of the state were entitled to vote for any such office, the name and number of such district; the determination to the persons thereby elected to such office; the votes shown by such certified copies to have been cast

paper is so transmitted, the state board has no power to consider it. *People ex rel. Derby v. Rice*, (1892) 129 N. Y. 461.

The state board cannot consider in making its canvass other papers or affidavits than the returns regularly laid before them by the county boards. But a mandamus will not issue to compel the secretary of state to refrain from placing before them such other papers or to compel him to return them to the county canvassers. *People ex rel. Sherwood v. Rice*, (1892) 129 N. Y. 391.

The state board of canvassers have no power to determine what was done in the previous year, to review or reverse the work of their predecessors, or to decide that there are vacancies in office. *Matter of Hart*, (1899) 161 N. Y. 507.

The state board cannot inquire into the eligibility of a candidate who has received votes for an office as shown upon the returns before them. But a mandamus will not issue to compel them to deliver a certificate of election to such a person if it clearly appear to the court that he is ineligible. *People ex rel. Sherwood v. Board*, (1892) 129 N. Y. 360.

Files of election returns from 1838 to 1905, on file in secretary of state's office, transferred to state library by chapter 274, Laws of 1907.

§ 443. Certificates of election.

The secretary of state shall thereupon forthwith transmit a copy, certified by his signature and official seal, of each such statement as to votes cast for candidates for any office, to the person shown thereby to have been elected to such office. He shall prepare a general certificate, under the seal of this state, and attested by him as secretary thereof, addressed to the house of representatives of the United States, in that congress for which any person shall have been chosen, of the due election of all persons so chosen at that election as representatives of this state in congress; and shall transmit the same to the house of representatives at its first meeting. If any person so chosen at such election shall have been elected to supply a vacancy in the office of representative in congress, it shall be mentioned by the secretary of state in the statements to be prepared by him.

Derivation: Election Law, § 141, as renumbered by L. 1897, ch. 379, § 27.

§ 444. Record in office of secretary of state of county officers elected.

The secretary of state shall enter in a book to be kept in his office the names of the respective county officers elected in this state, including school commissioners, specifying the counties and districts for which they were severally elected, and their places of residence, the offices to which they were respectively elected, and their terms of office.

Derivation: Election Law, § 142, as renumbered by L. 1897, ch. 379, § 27.

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ARTICLE 13.

UNITED STATES SENATORS, REPRESENTATIVES IN CONGRESS PRESIDENTIAL ELECTORS.¹

United States senators.
Representatives in congress.
Electors of president and vice president.
Meeting and organization of electoral college.
Secretary of state to furnish lists of electors.
Vote of the electors.
Appointment of messenger.
Other lists to be furnished.
Compensation of electors.

United States senators.

General election next preceding the expiration of a United States senator from this state, a successor shall be elected by the people for a full term. If a vacancy occur in the office of United States senator in any calendar year less than thirty days prior to the next general election, the governor shall make a temporary appointment to fill such vacancy until the first day of December in the next year. If such a vacancy occur in any calendar year less than thirty days prior to a general election the governor shall make a temporary appointment to fill such vacancy until the

§ 450. Representatives in congress.

Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held therein in every even numbered year. If any such representative shall resign, he shall forthwith transmit a notice of his resignation to the secretary of state, and if a vacancy shall occur in any such office, the clerk of the county in which such representative shall have resided at the time of his election, shall, without delay, transmit a notice thereof to the secretary of state.

Derivation: Election Law, § 190, as renumbered by L. 1899, ch. 466, § 2.

Cross-References.—Apportionment of representatives between the states and qualifications of representatives. U. S. Const., art. 1, § 2; id., 14th Amendment, §§ 2, 3 (part 2, post). Times, places and manner of election of representatives. U. S. Const., art. 1, § 4 (part 2, post). Vacancies in office. U. S. Const., art. 1, § 2 (part 2, post). Special election to fill vacancies. Election Law, § 292. Congressional districts. See Political Divisions of State, Counties and Towns (part 4, post). General certificate of election. Election Law, § 443. Resignations to be in writing and addressed to secretary of state. Public Officers Law, § 31 (part 6, post). As to apportionment and election of representatives, see also part 3, post.

§ 451. Electors of president and vice-president.

At the general election in November preceding the time fixed by the law of the United States for the choice of president and vice-president of the United States, there shall be elected by general ticket as many electors of president and vice-president as this state shall be entitled to, and each voter in this state shall have a right to vote for the whole number, and the several persons, to the number required to be chosen, having the highest number of votes shall be declared and be duly appointed electors.

Derivation: Election Law, § 191, as renumbered by L. 1899, ch. 466, § 2.

Cross-References.—Appointment, number and qualifications, etc., of electors. U. S. Const., art. 2, § 1 (part 2, post). See also as to presidential electors, part 3, post.

§ 452. Meeting and organization of electoral college.

The electors of president and vice-president shall convene at the capitol on the second Monday in January next following their election, and those of them who shall be assembled at twelve o'clock, noon, of that day, shall immediately at that hour fill, by ballot and by plurality of votes, all vacancies in the electoral college occasioned by the death, refusal to serve, or neglect to attend at that hour, of any elector, or occasioned by an equal number of votes having been given for two or more candidates. The electoral college being thus completed, they shall then choose a president, and one or more secretaries from their own body.

Derivation: Election Law, § 192, as renumbered by L. 1899, ch. 466, § 2.

Cross-References.—Date of meeting. See U. S. Statutes (part 3, post). Vacancies in electoral college. See U. S. Statutes (part 3, post).

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§§ 45

Secretary of state to furnish lists of electors.

Secretary of state shall prepare three lists, setting forth the names of electors and the canvass under the laws of this state of the votes for whose election any and all votes were given, to be a certificate of determination thereon, by the state canvasser, and the signature of the governor; affix thereto the seal of the state, and deliver the same thus signed and sealed to the president of the senate on the second Monday in January.

Election Law, § 193, as renumbered by L. 1899, ch. 46. References.— Similar provisions in U. S. Statutes (part 3, post).

of the electors.

After the organization of the electoral college, the electors shall vote by ballot for president and vice-president, one of whom shall not be an inhabitant of this state. They shall name the person voted for as president, and in distinct ballots, the person voted for as vice-president. They shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of all votes for each, which lists they shall sign and certify to the secretary of state, and thereto one of the lists received from the secretary of state. They shall then take up the same, certifying thereon, that lists of the votes for president and vice-president are contained therein.

Election Law, § 194, as renumbered by L. 1899, ch. 46. References.— Manner of voting prescribed by United States Constitution, U. S. Const., 12th Amendment (part 2, post). As to manner of signing and sealing, see U. S. Statutes (part 3, post).

Appointment of messenger.

The electors shall then, by a writing under their hands, or under the hands of one of them, appoint a person to take charge of the lists so signed and sealed, and deliver the same to the president of the senate at the seat of the United States before the third Monday in the said month of January.

ARTICLE 14.

STATE SUPERINTENDENT OF ELECTIONS.

[Title amended by L. 1915, ch. 678, in effect May 22, 1915.]

Section 470. Metropolitan elections district.

- 471. State superintendent of elections, chief deputy and assistants.
- 472. Powers of superintendent, clerk and deputies.
- 473. Deputies; appointment, qualification, examination, vacancies and terms.
- 474. Additional deputies.
- 475. Control and powers of deputies; refusal to furnish information.
- 476. Aid by private persons and public officers.
- 477. Subpoenas by state superintendent.
- 478. Administration of oaths by superintendent and deputies.
- 479. Attendance and duties at polling places.
- 480. Reports by lodging-house and hotel keepers.
- 481. Affidavits by hotel keepers holding liquor license.
- 482. Filing such reports and affidavits.
- 483. Reports by police and certain departments.
- 484. List to be furnished if required by the superintendent of elections.
- 485. Card lists of registered voters.
- 486. Removal of deputies.
- 487. Salaries and expenses.
- 488. Report to governor.

§ 470. Metropolitan elections district.

Note.—Repealed by L. 1911, ch. 649. In effect July 13, 1911.

§ 471. State superintendent of elections, chief deputy and assistants.

There shall be an officer to be known as "state superintendent of elections." The governor shall appoint such superintendent of elections by and with the advice and consent of the senate, who shall hold office for the full term of four years. Such term shall begin on the first day of January in every fourth year beginning with the year nineteen hundred and fifteen and shall expire on

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first day of December. Vacancies shall be filled for the unexpired term. Such superintendent must be appointed from office in the same manner as a sheriff. He shall appoint a chief deputy without nomination, a secretary, clerks, stenographers and other employees, and receive compensation therefor.

L. 1905, ch. 629, § 1, amending L. 1898, ch. 676, § 2.
L. 1909, ch. 240; L. 1911, ch. 649; L. 1915, ch. 678, in effect.

Editor's Note.—The section has been recast, the expressions appropriate to an enactment as such being omitted and new expressions substituted.

Quality of appointment by governor.—The office of the state superintendent is new in name and essentially new in function, and, therefore, was authorized to provide for the appointment of the superintendent by the governor instead of by some local authority, as in the case of the sheriff. This is a valid exercise of legislative power. *Maloney*, 186 N. Y. 202, aff'g 114 App. Div. 127, 99 N. Y. 783; *People ex rel. Maloney*, 114 App. Div. 182, 99 N. Y. Supp. 897, aff'd 186

ers of superintendent, clerks and deputies.

... of superintendent, clerks and deputies.

§ 473. Deputies; appointment, qualification, examination, vacancies and terms.

Nota.—Repealed by L. 1915, ch. 678, in effect May 22, 1915.

§ 474. Additional deputies.

The superintendent, whenever he deems it necessary, may appoint, in addition to the chief deputy without nomination and at pleasure remove, not more than two hundred and thirty-three other deputies, to be employed by him in enforcing the provisions of this article.

Derivation: L. 1905, ch. 689, § 1, amending L. 1898, ch. 676, § 5.

Amended by L. 1911, ch. 649; L. 1915, ch. 678, in effect May 22, 1915.

§ 475. Control and powers of deputies; refusal to furnish information.

All deputies appointed under this article shall be subject to the direction and control of the state superintendent, and he may, subject to the next provision, assign them to any election district. He must, however, assign to duty in the city of New York seventy of the deputies receiving annual salaries and eighty-seven deputies receiving per diem compensation. The state superintendent shall make such rules for the control and conduct of his deputies as he may deem advisable, not in conflict with law.

Such deputies, when directed by the state superintendent, shall, on their own motion, or on complaint of any citizen of the state, may:

1. Investigate all questions relating to registration of voters, and for that purpose shall have power to visit and inspect any house, dwelling, building, inn, lodging-house or hotel and interrogate any inmate, house-dweller, keeper, care-taker, owner, proprietor or landlord thereof or therein, as to any person or persons residing or claiming to reside therein or thereat.

2. Arrest any person without warrant who in his presence violates or attempts to violate any of the provisions of this chapter or the penal law relating to crimes against the elective franchise.

3. Execute warrants of arrest and take into custody the person or persons named in such process.

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et and copy any books, records, papers or documents affecting the election or the registration of every lodging-house keeper, landlord or proprietor of a register of lodgers therein at any time to such person who neglects or refuses to furnish any information authorized by this article, or to exhibit records, papers or documents herein authorized to be inspected, or which are exhibited, shall be guilty of a misdemeanor.

L. 1905, ch. 689, § 1, amending L. 1898, ch. 676, § 6.
L. 1911, ch. 649; L. 1915, ch. 678, in effect May 22, 1916.
Note.—The second sentence, "The state superintendent has the control and conduct of his deputies as he may see fit, in conflict with law" is taken over from section 487.
answer questions.—The power given to deputies appointed to investigate the questions relating to the registration of voters for the purpose to interrogate any inmate or proprietor of any lodging-house residing or claiming to reside therein, cannot be construed as a refusal to answer questions before he has registered.
In *People v. Carleton* (1903), 41 Misc. Rep. 523, 85 N. Y. Supp.

by private persons and public officers.

superintendent, or any deputy, may call on any person for the performance of their duty; and they

Derivation: L. 1905, ch. 689, § 1, amending L. 1898, ch. 676, § 7, pt.

Amended by L. 1911, ch. 649; L. 1915, ch. 678, in effect May 22, 1915.

Constitutional.—The act amending the statute relative to the powers and duties of the superintendent of elections for the metropolitan elections district is valid. It creates an official who has no power to entertain proceedings or punish a guilty person for illegal registration, but who is empowered to investigate the subject to the end that illegal registration may be discovered and voting thereon prevented. *Matter of Cahill* (1908), 193 N. Y. 232, aff'g 126 App. Div. 391, 110 N. Y. Supp. 728.

The conviction under an indictment charging the defendant with violating the provisions of this section by assisting in the escape of a registered elector, who, when he attempted to vote on election day, was arrested by a deputy superintendent of elections without a warrant, on a charge of having falsely registered, cannot be sustained, in the absence of proof that the person whom the deputy superintendent of elections had arrested was actually guilty of the crime of false registration. *People v. Hochstim* (1902), 76 App. Div. 25, 78 N. Y. Supp. 638, rev'g 36 Misc. 562, 73 N. Y. Supp. 626.

Taking false oath before deputy superintendent.—Authorizing the superintendent and certain deputies to administer oaths is constitutional, and a conviction for the making of a false oath before such deputy will not be reversed on the theory that the officer had no authority to administer it. *People v. Ellenbogen* (1906), 114 App. Div. 182, 99 N. Y. Supp. 897, aff'd 186 N. Y. 603.

§ 477. Subpoenas by state superintendent.

The state superintendent shall have power to issue subpoenas for the purpose of investigating any matter within his jurisdiction and of aiding him in enforcing the provisions of this article, such subpoenas to be issued in the name of the state superintendent. He may in proper cases issue subpoenas duces tecum. A subpoena issued by the state superintendent of elections may be served by the superintendent or by any deputy appointed by him or by any police or peace officer.

Any person who shall omit, neglect or refuse to obey a subpoena attested in the name of the state superintendent and made returnable at one of the offices or branch offices of the superintendent, or who shall refuse to testify under oath before him his chief deputy, or other deputy duly designated by the superintendent pursuant to the provisions of this article, is guilty of a misdemeanor.

Derivation: L. 1905, ch. 689, § 1, amending L. 1898, ch. 676, § 7, pt.

Amended by L. 1911, ch. 649; L. 1915, ch. 678, in effect May 22, 1915.

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person shall be printed the following words: "The statements are true." In the form of affidavit, sworn to by the landlord, proprietor, lessee or keeper of such house, inn or hotel, shall be included the statements of the guests or lodgers certified to in writing in the presence of such landlord, proprietor, and that he personally knows them to be as described.

That the sworn report herein required shall true as therein stated, it shall be the duty of the said landlord, proprietor, lessee or keeper to question each male person coming in such lodging-house, inn or hotel as to his claiming such place as a voting residence, and such person upon declare his intention thereof, and if he claims such place as his voting residence he shall give to such landlord, proprietor, lessee or keeper such facts regarding himself to be incorporated in the sworn report herein required.

Any landlord, proprietor, lessee or keeper or any person who violates this provision shall be deemed guilty of a

he and such building have conformed to and at the time of making the affidavit do conform to all the requirements of the laws, ordinances, rules and regulations relating to hotels and hotel keepers, including all laws, ordinances, rules and regulations of the state or locality pertaining to the building, fire and health departments in relation to hotels and hotel keepers and that such building is or was within three months of the said election used as a hotel. If for any reason the said building or part of the building used as a hotel shall be devoted to other than hotel purposes within three months of said election the holder of such liquor tax certificate shall state in such affidavit for what purpose such building or part thereof formerly used for hotel purposes is then used, and, if the same has been sublet to any person, he shall so state, giving the terms of said lease, and the name of the lessee.

Any holder of a liquor tax certificate required to make such affidavit by the said superintendent who shall refuse, fail or neglect to make and file the same forthwith with the superintendent is guilty of a misdemeanor. Any holder of a liquor tax certificate who shall incorporate any false statement in any sworn report or affidavit to the superintendent of elections is guilty of perjury and in addition to suffering the penalty prescribed by law for such crime shall forfeit his liquor tax certificate and shall be deprived of all rights and privileges thereunder and of any right to a rebate of any portion of the tax paid thereon, and shall be debarred from trafficking in liquors for a period of five years from the date of his conviction.

Derivation: L. 1905, ch. 689, § 1, amending L. 1898, ch. 676, § 9, pt., as amended by L. 1908, ch. 488, § 1.

Amended by L. 1911, ch. 649; L. 1915, ch. 678, in effect May 22, 1915.

§ 482. Filing such reports and affidavits.

Any report or affidavit required by the two preceding sections shall be acknowledged and sworn to before a notary public, commissioner of deeds, or justice of the peace, and shall be filed personally by such landlord, proprietor, lessee or keeper or by registered mail with the said superintendent of elections at such office as he may designate.

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L. 1905, ch. 689, § J, amending L. 1902, ch. 676, § 1
1908, ch. 488, § 1.

L. 1911, ch. 649; L. 1915, ch. 678, in effect May 22, 1916

ts by police and certain departments.

the state superintendent of elections shall :
 e duty of the chief of police and the respective
 ments of buildings, fire and health to forthwith
 writing to the superintendent of elections o
 rt of a building in such city in which the busi
 liquors is conducted under a liquor tax ce
 subdivision one of section eight of the liquor l
 cation thereof by street and number, election
 district or ward, the character of such busi
 ne holder of the certificate, specifying wheth
 urant, saloon, store, shop, booth or other pl
 he holder of such certificate, and if the pla
 rt shall state whether or not the building anc
 ate conform to all the laws, ordinances, ru
 the state or locality including the laws, ord
 lations of the building, fire and health depa

[illegible]

period that they have resided therein, and such other information as may be deemed necessary by said superintendent, and said superintendent shall have the power whenever deemed necessary by him, to require said owner or said lessee in addition to notify said superintendent whenever any of said male persons shall within twenty-nine days before election leave said hotel, inn, lodging-house and dwelling. Said superintendent shall have the power to require said list to be made by the owner if said owner is in possession. If said owner is not in possession said superintendent shall have the power to require said owner to furnish the name of the lessee and lessees of said building and said superintendent shall then have the power to require said list of said lessee and lessees. In the event that said building is occupied in part by said owner and in part by a lessee or lessees the said superintendent shall then have the power to compel the owner to furnish the said list for the part occupied by him, and the names of the lessee or lessees who lease the remaining part of said building, and said superintendent may require said lists from said lessee or lessees. In the event of the neglect of the owner or lessee to furnish said list when demanded by said superintendent of elections, said owner or lessee shall be guilty of a misdemeanor punishable by a fine of two hundred and fifty dollars, and in case of a second conviction shall be punishable by a fine of five hundred dollars and imprisonment. If the owner furnishes to said superintendent a list which states that a male person has resided in said premises for a longer period than he has actually resided therein, or if said person puts upon said list a name under which no person has resided any length of time in said premises, said owner shall be guilty of a felony and in addition liable to a penalty of one thousand dollars, which said penalty shall be a lien upon the house and the lot upon which the house is situated. If the lessee furnishes a false list then the said lessee shall be liable to a penalty of one thousand dollars, which said penalty, in addition to being satisfied out of any goods or chattels of the lessee, shall be a lien upon the leasehold, and shall entitle said leasehold to be sold to satisfy said penalty subject to the rights of the land-

ELECTION LAW.

penalty imposed herein upon a house or lot
upon the house and lot or leasehold in rela
penalty is imposed from the time of filing of a co
judgment in the office of the clerk of the cou
house and lot or leasehold is situated, subject t
ments, water rates and to such mortgages as
as he may exist thereon prior to such filing,
duty of the prosecuting officer upon the entry
forthwith file the copy as aforesaid in the o
the county and said copy upon said filing sh
dexed by the clerk in the index of mechanics' lie
may be filed in the office of the clerk of the cou
house or leasehold is situated at the time of th
of the proceedings under this section.

L. 1908, ch. 488, § 2, amending L. 1903, ch. 680, and L.

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L. 1911, ch. 640, L. 1913, ch. 678, in effect May 22, 1912

1 lists of registered electors.

t of inspectors of each election district shall a
tration transfer to cards, to be provided for th
secretary of state, which cards shall be in for
ed by the state superintendent of elections, a co
name of each person registered in their res
gether with all of the answers made and infor
ation, ascertained at the date of registration

§ 486. Challenge lists.

1. The state superintendent of elections shall prepare for each election district in the city of New York a challenge list containing the names, alphabetically arranged, and addresses of all persons who, by reason of death, removal, conviction or otherwise, have lost the right to register from the addresses within such election district from which they registered at the last preceding election. Such challenge lists shall be delivered to the respective boards of registry in such city at least one-half hour before the commencement of registration. It shall be the duty of the chairman of such respective boards of registry to challenge the registration of any person applying to them for registration under any name on said challenge lists, unless it shall affirmatively appear after strict examination of the voter, and, if necessary, others also, that such voter has become domiciled at a new address within the election district. Said challenge lists shall contain a column headed "remarks" and it shall be the duty of the chairman of the respective boards of registry to enter in said column opposite the names on said lists whether any person applying for registration under any name on said lists who was challenged was allowed to register and the reason for allowing him to register. If a person applies for registration under any name on said challenge lists who is challenged and does not register then there shall be entered opposite such name in the aforesaid column headed "remarks" the words "challenged but did not register." If no person applies for registration under any name on said challenge lists then there shall be entered opposite each such name in the aforesaid column headed "remarks" the words "no application." Any duly accredited watcher shall have the right to examine such challenge list. On each day of registration the chairman of the board of registry shall make the challenges and the entries in the column headed "remarks" as heretofore provided. At the close of the last day of registration said challenge lists shall be signed and certified as true by each member of such board of registry and returned to the state superintendent of elections in a sealed envelope provided therefor by the said state superintendent.

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the last day of registration and before election the state superintendent of elections also shall in each election district in the city of New York a challenge list containing the names, alphabetically arranged, and addresses of all persons registered in such district during said last period of registration whom he shall have reason to believe to be or otherwise, not to be entitled to vote at such election. Said challenge lists shall be delivered to the respective boards of inspectors in such city at least one-half hour before the polls of each election. It shall be the duty of the respective boards of inspectors to challenge any person presenting himself to vote under any name on said lists. Said challenge lists shall contain a column headed "Remarks," and it shall be the duty of the respective boards of inspectors to enter in said column on said lists whether any person applying to vote on said lists who was challenged was allowed to vote or not for allowing him to vote. If a person appears on any name on said challenge lists who is challenged, then there shall be entered opposite such name in the column headed "Remarks" the words "challenged."

Derivation: L. 1905, ch. 689, § 1, amending L. 1898, ch. 676, § 11.

Amended by L. 1911, ch. 649; L. 1915, ch. 678, in effect May 22, 1915.

§ 487. Salaries and expenses.

The annual salary of the state superintendent of elections shall be five thousand dollars; of the chief deputy, four thousand dollars; of the secretary, two thousand dollars; of one chief stenographer, fifteen hundred dollars; of not more than thirteen of the deputies, of whom eight may be assigned to take charge of the branch offices, fifteen hundred dollars each; of not more than seventy of the deputies, twelve hundred dollars each; payable semi-monthly. All other deputies shall receive five dollars for each day's service, not exceeding forty days for any one election, to be paid on the certificate of the superintendent or chief deputy, which forty days shall be within a period beginning one week before the first day of registration and ending December thirty-first of such year. The salaries of the clerks and other stenographers shall be fixed by the said superintendent. All salaries and other compensation provided by this section shall be paid by the state treasurer on the warrant of the comptroller.

The state superintendent may provide one main office, which shall be located in the city of Albany, and branch offices in his discretion, not to exceed eight in number, one of which shall be located in the city of New York and furnish them with needed furniture, stationery and supplies, and expend for such purpose and for disbursements and expenses in carrying out the provisions of this article, not exceeding forty thousand dollars each year, to be paid by the state treasurer on the audit and warrant of the comptroller.

Derivation: L. 1905, ch. 689, § 1, amending L. 1898, ch. 676, § 12.

Amended by L. 1911, ch. 649; L. 1915, ch. 678; L. 1917, ch. 234, in effect July 1, 1917.

§ 488. Report to governor.

The state superintendent of elections shall annually in the month of December file with the governor a report showing the names and residences of the persons appointed by him as deputies during the year, the number of days each has served, the com-

certified for each, the number of arrests made for each chapter or the penal law, the names of the persons, the nature of the offense charged, the disposition made, and other facts in relation to the administration of the law, which the state superintendent may deem proper or which may be required by the governor.

Added by L. 1906, ch. 689, § 1, amending L. 1898, ch. 676, § 12. Amended by L. 1911, ch. 849; L. 1915, ch. 678, in effect May 22, 1915.

Authority of state superintendent of elections. The authority, powers and jurisdiction of the state superintendent of elections with respect to general elections, as defined in this article, are hereby extended to primary elections, in which provisions may be applicable.

Added by L. 1911, ch. 891, § 63; amended by L. 1915, ch. 678, in effect May 22, 1915.

L. 1915, ch. 678, § 44.

Term of office of the present state superintendents. The term of office of the present state superintendents shall expire upon the appointment and qualification of their successors.

such law as amended by this act, which pertain to the powers and duties of the present superintendents of elections, nor affect the running of time with respect to any proceeding provided for in the election law. Any such pending matter pertaining to the functions of the state superintendents of elections shall be continued and disposed of by the state superintendent of elections.

In effect May 22, 1915.

ARTICLE 15.

SOLDIERS' AND SAILORS' ELECTIONS.

al polls in time of war.
 eral register of absent voters.
 books and oaths.
 al war ballots.
 al envelopes for war ballots.
 ivery of official war ballots, poll books and envelopes.
 s of nominations.
 s of election
 ing of the polls.
 mization of the polls.
 ct of elections
 ut of the votes.
 ens not to be rejected because of informality of elec
 position of envelopes and ballots.
 vass by inspectors of election.
 vass by county board.
 vass by state board.
 ens or statements not made and filed prior to certai
 ny year not to be canvassed.
 sions of penal law relating to crimes against the
 nchise to apply.
 ng vacancies in the office of inspector of elections.
 tions may be contested
 ral provisions concerning elections to apply
 es of this article to be published and distributed.

l polls in time of war.

n time of war, any qualified voter of this state s
 ilitary service of this state or of the United St
 tate of all those thereof absent from h

state, to be filled out with the necessary information, attested by him, and returned forthwith, securely sealed, to the secretary of state. Such general register shall be a public record and shall at all reasonable times be open for inspection by any voter of this state. It is hereby made the duty of every public officer, and of every citizen, to furnish to the secretary of state such information as he may possess relating to such absent voters; and any person who shall refuse so to do, or shall wilfully furnish false information in reference to such absent voters, shall be deemed guilty of a felony and shall, upon conviction thereof, be punished by imprisonment in a state prison for not less than one year nor more than three years.

Derivation: L. 1898, ch. 674, § 2.

Consolidators' note.—The second sentence rearranged, and "he" changed to "secretary of state."

The provision imposing a duty on every citizen "to render such assistance and information as he may possess, to the secretary of state, of all the facts," etc., is made, "to furnish to the secretary of state such information as he may possess," etc.

§ 502. Poll books and oaths.

It shall be the duty of the secretary of state to cause to be prepared and printed in book form a sufficient number of poll books, at least two books for each poll, for the use of the inspectors of elections at the polls of the elections held under the provisions of this article. Such poll books shall be in the general form of those prescribed for use at elections in this state, omitting all columns except those for the number, name and residence of each voter, and so arranged that there can be entered therein, in addition to such entries, in separate columns, the name of the county and city or town in which the persons voting at such poll reside or claim to reside, and also the designation of the particular command to which each such person is attached or of which he forms a part. Upon the first page of each such poll book shall be printed the date and character of the election for which it is prepared, and blank spaces in which shall be written by the inspectors the place at which the poll was held, and the names and residences of the persons acting as inspectors of election thereat. Upon the page following the last page of each such poll book used for recording the names of voters at such poll, shall be printed a blank certificate, to be signed by the inspectors of election at the close of the polls. Such certificate shall be substantially in the following form:

"We, the inspectors of election for the general (or special) election held at (here follows the name of the place) on the day of 19.., do hereby certify that the names of the persons recorded herein as having voted at such election, such persons numbering in all (here follows the number in figures and words), are all the persons who appeared before us and demanded to vote at such election, and took the oath required, and who voted at such election.

.....
.....
.....
.....

Inspectors of Election."

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and also contain the oaths for the inspection of section two hundred and nine of this article.

Official Ballots.

The secretary of state to cause to be printed as many official ballots in the form as there are voters absent from their respective precincts as shown by such general register. Each such ballot shall be six inches wide and of such length as to allow room for the title of each office printed upon it and for the name of each candidate for whom a voter may lawfully vote for and one-half inch for the name of the voter. Each class of offices shall be separate and the length of an inch wide, running across such ballot. The type shall be uniform in size and style of type used for all offices, as near as may be, for which used in any election district of the state at such election. The paper for such ballots shall conform generally to the official ballots prescribed by this chapter. Such ballots shall be substantially the following form:

STATE OFFICES.

For Governor

For Lieutenant-Governor.

JUDICIAL OFFICES

Upon the back of each such ballot shall be printed the words:

"OFFICIAL WAR BALLOT

For the general (or special) election, held November,
19....."

Derivation: L. 1898, ch. 674, § 4.

§ 504. Official envelopes for war ballots.

He shall also cause to be prepared and printed at least twice as many official envelopes as there are voters absent from their election districts, as shown by such general register. Such envelopes shall be gummed, ready for sealing. Upon one side of such envelope shall be printed in substantially the following form the following:

"OFFICIAL WAR BALLOT

FOR

GENERAL ELECTION, NOVEMBER...., 19..

Name of voter.....

Residence (street and number, if any).....

County of

City or Town of

.....,

Secretary of State."

Upon the other side of such envelope shall be printed the following oath:

"OATH OF ELECTOR.

"I do swear (or affirm) that I have been a citizen of the United States for ninety days and am now of the age of at least twenty-one years, or will be on the.....day of....., 19..; that I will have been an inhabitant of the state of New York for one year next preceding this election and for the four months preceding such election a resident of the county of, and am a qualified voter, residing at (street and number, if any), in the (city or town of); that I am in the actual military (or naval) service of the state of New York or of the United States, and at present attached to (here state the particular command to which attached); and that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned and restored to all the rights of a citizen."

If at such election any proposed amendment to the constitution or

other proposition or question is to be submitted to the vote of the voters of the state, the secretary of state shall furnish an equal number of ballots for questions so submitted in the form prescribed by section three hundred and thirty-two of this chapter, which shall be properly indorsed, as a war ballot.

Derivation: L. 1898, ch. 674, § 5.

§ 505. Delivery of official war ballots, poll books and envelopes.

The secretary of state shall cause to be delivered to the commanding officer of every command in which ten or more voters of this state are included, absent from their respective election districts in time of war in the actual military service of this state or the United States in the army or navy thereof, a sufficient number of official war ballots of each kind and official envelopes, at least twice as many as there are such voters in such command; and two poll books for the use of such voters at each poll of each election held under the provisions of this article. Such official war ballots, poll books and envelopes shall be delivered in time for use at the election for which they are prepared, in such manner and by such means as shall in the judgment of the secretary of state be best suited to secure their safe and timely delivery for the use of the voters at the election for which they have been prepared.

Derivation: L. 1898, ch. 674, § 6.

§ 506. Lists of nominations.

It shall be the duty of each county clerk or board with whom or which certificates of nominations to public office are filed to cause a certified list of such nominations to be forthwith forwarded by mail to the secretary of state, including the name and residence of each nominee together with the title of the office for which he is nominated and the party or other political name specified in such certificates of nomination. It shall be the duty of the secretary of state after the receipt by him of such certified lists of nominations to communicate so far as practicable, to each commanding officer of any command having therein ten or more voters of this state absent from their respective election districts in time of war, in the actual military service of this state or the United States in the army or navy thereof, the name and residence of each person named in any certificate of nomination so certified by a county clerk or filed in the office of the secretary of state, together with the title of the office for which he is nominated and the party or other political name specified in such certificates of nominations; and upon receipt thereof each such commanding officer shall cause such information to be posted in a conspicuous place for the information of such absent voters in his command.

Derivation: L. 1898, ch. 674, § 7.

§ 507. Polls of election.

Polls of an election held under the provisions of this article shall be opened on the day of such election at the quarters of the captain

or other commanding officer of any company, troop or other command in the military service of this state or of the United States in the army or navy thereof, if the same be composed in whole or in part of voters of this state. All qualified voters of this state in such command may vote at such poll. Officers and enlisted men, voters of this state, attached to or forming part of a command having therein less than ten such voters, or detached by military order and absent from their command, may vote at such other poll as may be most convenient for them.

Derivation: L. 1898, ch. 674, § 8.

§ 508. Opening of the polls.

Any election held under the provisions of this article shall be held upon the day of the general or special election in this state, or on any secular day within twenty days next prior thereto, such prior day to be fixed by the commanding officer of any command where the poll or polls for such election shall be held, by proclamation duly made; provided, however, that if by reason of the exigencies of war such election can not be held in any of the polls herein provided on the day so fixed, such election may be held on the next day practicable thereafter upon like proclamation of the commanding officer of any such command; but such election shall not be held later than the day of such general or special election. Such polls shall be opened at such hour of the day as shall be most convenient for such voters and shall remain open not less than three hours and as much longer as shall, in the opinion of the inspectors of election serving at such polls, be necessary in order to receive the votes of all voters of this state entitled to vote at such polls; but no polls shall be kept open later than sunset of the day on which such election shall be held.

The inspectors shall at the opening of such polls make public proclamation of the opening thereof and the time at which such polls shall be closed, and as near as may be, at one hour before the closing of the polls, public proclamation shall again be made by the inspectors that the polls will be closed at a time certain then proclaimed, which shall be the hour announced in the proclamation made at the opening of the polls. The polls shall not for any reason be kept open after the hour fixed by the first proclamation.

Derivation: L. 1898, ch. 674, § 9.

§ 509. Organization of the polls.

At the hour and place herein provided for the opening of the polls, the qualified voters of this state then present shall, by viva voce vote, select four of their own number to act at such election as the inspectors of election thereof. Such inspectors shall, so far as possible, be so selected that they shall equally represent the two political parties of this state which at the last preceding election in this state polled the highest and next highest number of votes respectively. Such inspectors, when so elected, shall choose one of their number as chairman of the board of inspectors by election or by drawing lots. Such chairman shall then administer the oath of office to the other inspectors

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§§ 1

tion or question is to be submitted to the vote of the state, the secretary of state shall furnish an equal number of questions so submitted in the form prescribed in section hundred and thirty-two of this chapter, which shall be used, as a war ballot.

Act L. 1898, ch. 674, § 5

Delivery of official war ballots, poll books and envelopes.

The secretary of state shall cause to be delivered to the commanding officer of every command in which ten or more voters of the state are absent from their respective election districts in the regular or actual military service of this state or the United States army or navy thereof, a sufficient number of official war ballots, and official envelopes, at least twice as many as the number of voters in each command, and two poll books for the use of each command, and two poll books for the use of each command. The official war ballots, poll books and envelopes shall be delivered for use at the election for which they are prepared, and by such means as shall in the judgment of the secretary of state be best suited to secure their safe and timely delivery to the voters at the election for which they are

Act L. 1898, ch. 674, § 6.

Books of nominations.

or other commanding officer of any company, troop or other command in the military service of this state or of the United States in the army or navy thereof, if the same be composed in whole or in part of voters of this state. All qualified voters of this state in such command may vote at such poll. Officers and enlisted men, voters of this state, attached to or forming part of a command having therein less than ten such voters, or detached by military order and absent from their command, may vote at such other poll as may be most convenient for them.

Derivation: L. 1898, ch. 674, § 8.

§ 508. Opening of the polls.

Any election held under the provisions of this article shall be held upon the day of the general or special election in this state, or on any secular day within twenty days next prior thereto, such prior day to be fixed by the commanding officer of any command where the poll or polls for such election shall be held, by proclamation duly made; provided, however, that if by reason of the exigencies of war such election can not be held in any of the polls herein provided on the day so fixed, such election may be held on the next day practicable thereafter upon like proclamation of the commanding officer of any such command; but such election shall not be held later than the day of such general or special election. Such polls shall be opened at such hour of the day as shall be most convenient for such voters and shall remain open not less than three hours and as much longer as shall, in the opinion of the inspectors of election serving at such polls, be necessary in order to receive the votes of all voters of this state entitled to vote at such polls; but no polls shall be kept open later than sunset of the day on which such election shall be held.

The inspectors shall at the opening of such polls make public proclamation of the opening thereof and the time at which such polls shall be closed, and as near as may be, at one hour before the closing of the polls, public proclamation shall again be made by the inspectors that the polls will be closed at a time certain then proclaimed, which shall be the hour announced in the proclamation made at the opening of the polls. The polls shall not for any reason be kept open after the hour fixed by the first proclamation.

Derivation: L. 1898, ch. 674, § 9.

§ 509. Organization of the polls.

At the hour and place herein provided for the opening of the polls, the qualified voters of this state then present shall, by viva voce vote, select four of their own number to act at such election as the inspectors of election thereof. Such inspectors shall, so far as possible, be so selected that they shall equally represent the two political parties of this state which at the last preceding election in this state polled the highest and next highest number of votes respectively. Such inspectors, when so elected, shall choose one of their number as chairman of the board of inspectors by election or by drawing lots. Such chairman shall then administer the oath of office to the other inspectors

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the other inspectors shall then administer the same. The oath to be administered shall be as follows: "I solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of the state, and that I will faithfully discharge the duties of the office of inspector at such election according to the best of my ability."

The oath or affirmation shall be written or printed, or partly printed, and attached to or entered upon the record at such election, and subscribed by the person taking the oath, and certified by the person administering the same.

Immediately upon the organization of such board of inspectors, the officers to whom shall have been delivered any poll books and envelopes shall deliver the same to the board of election of such election and shall take a receipt therefor, which shall be forwarded by mail by such commanding officer of state. The said inspectors shall produce a box for the reception of ballots to be voted at such election. Before proceeding they shall open said box and publicly exhibit the contents of the same shall be entirely empty. They shall then fasten the same and the said box shall not be opened until the close of the polls at such election. Each box shall have an opening in the top thereof for the reception of ballots.

The chairman of the board of inspectors shall have charge of the election and shall receive from the voters the ballots containing ballots and shall deposit the same in the box for the reception of ballots.

the county, and the city or town in which he claims to reside, and shall deliver such ballot or ballots and such envelope, to such voter. Such voter shall then retire to some convenient place and shall prepare his ballots and envelope for voting.

The voter may write or paste upon his ballot the name of any person for whom he desires* to vote for any office* for which such voter may lawfully vote at such election. Any such voter may paste upon such ballot a printed ballot of his own selection or preparation, to be known as a paster ballot, containing the titles of all the offices to be filled and the names of the candidates therefor for whom he desires and is entitled to vote at such election. Such paster ballot may be gummed and the voter may paste the whole or any part of such paster ballot upon the official ballot. Any name so written or pasted upon the official ballot shall be deemed the choice of the voter. All pasters shall be of white paper and printed in type uniform with that required to be used upon the official ballot and printed in plain black ink. A paster shall be so attached to the ballot that when the ballot is folded no printed portion of such paster shall be visible.

After preparing his ballot and before delivering the same to the chairman of the board of inspectors, the voter shall fold his ballot in such a way that the contents of the ballot shall be concealed and inclose the same in such envelope which he shall securely seal. He shall then deliver such envelope to the chairman of the board of inspectors; but before such envelope shall be deposited in the ballot box the chairman shall declare from such envelope the name of such voter and his residence by street and number, if any, county and city or town, and if such voter is entitled to vote and such envelope* is securely sealed and his name and the other matter hereby required is recorded upon the poll books, the inspector keeping such poll books shall announce the same as correct and shall record such voter as voting. The chairman shall thereupon deposit such envelope containing such ballot or ballots in the ballot box. Any voter so having voted, shall not again be entitled to vote at such election, though present on election day in the election district where he resides.

If, for any cause, the official ballots, poll books and envelopes shall not be provided as required by law at any polling place, upon the opening of the polls for any election thereat, or if the supply of official ballots or envelopes shall be exhausted before the polls are closed, unofficial ballots, poll books and envelopes printed or written, made as nearly as practicable in the form of the official ballot, poll books and envelopes may be used.

Derivation: L. 1898, ch. 674, § 11.

§ 511. Count of the votes.

As soon as the polls of an election are closed, the inspectors of election thereat shall publicly destroy all official envelopes and ballots not voted; and shall then publicly open such ballot boxes and count and ascertain the number of voters voting and not adjourn or postpone the count until it shall be fully completed. The board of inspectors shall

* So in original.

election immediately upon their convening at the polls; and the chairman thereof or, in his absence, the person who shall be chosen to act as chairman, as provided by law, shall publicly read aloud the indorsement contained upon the envelope, and if such voter shall be a qualified voter in said election district, the chairman or acting chairman shall then cause the envelope to be opened and without unfolding or inspecting the contents, shall deposit the same in the ballot box provided for the purpose. If any such envelope shall contain more than one name, office, amendment or question, all ballots so deposited shall be void. Said inspectors shall file all such envelopes in the office of the county clerk of the county within which the election district is situated. If upon investigation made by the inspectors it shall be determined that such voter is not a qualified voter in said election district, his said ballot or ballots shall be void, without unfolding or inspecting the same, and the same shall be filed as above provided.

§ 1898, ch. 674, § 14, as amended by L. 1899, ch. 84. *Note.*—The expression "police board" and "board of elections" in four places, the supervisor of elections in New York city by the police department having been transferred to the board of elections.

Notes cast by absent soldiers. Report of Atty.-Gen.

Notes by inspectors of election.

If ballots shall have been cast, said inspectors of election shall proceed to canvass the same, and make a statement of the result as provided by law, and forward the same to the board of elections.

Derivation: L. 1898, ch. 674, pt. of § 15, as amended by L. 1899, ch. 58, § 1, and § 16.

§ 516. Canvass by state board.

If any such new statements shall be made by a county board after the time fixed by law for the canvass of the regular statements of the county boards by the state board of canvassers, the state board of canvassers shall convene upon notice by the secretary of state and shall proceed to canvass such new statements of a county board, and their original canvass, if any, shall be corrected accordingly; and the state board of canvassers shall cause a determination of such result to be made in accordance with such new statements. And they shall not, until such meeting, determine the result of the election, anything now provided by law to the contrary notwithstanding.

Derivation: L. 1898, ch. 674, § 17.

§ 517. Returns or statements not made and filed prior to certain dates in any year not to be canvassed.

No statement, as provided by this article, which shall not have been duly made and filed by a county board of canvassers prior to the twenty-ninth day of December next succeeding such election in any year, shall be canvassed or affect the result of such an election; and no return or statement not received by a county board of canvassers at their meeting herein provided for, shall be thereafter canvassed, or affect the result of such election.

Derivation: L. 1898, ch. 674, § 18.

§ 518. [Am'd, 1909.] Provisions of penal law relating to crimes against the elective franchise to apply.

All the provisions of the penal law relating to crimes against the elective franchise shall be deemed to apply to all elections held under the provisions of this article, and any person who shall violate any such provisions may be indicted at any time in any county of this state and may be fined or imprisoned or both so fined and imprisoned upon conviction thereof whenever found in this state.

Amended by L. 1909, ch. 240. In effect April 22, 1909.

Derivation: L. 1898, ch. 674, § 19.

§ 519. Filling vacancies in the office of inspector of elections.

It shall be lawful for a majority of the inspectors of election provided for by this article to execute all the trusts and duties required to be executed by the inspectors herein provided for. And if for any cause, after the inspectors of election hereinbefore provided for shall have been chosen, any of the said inspectors shall permanently absent himself from the place of holding such election, or shall for any cause be obliged permanently to leave the place of holding such election, the remaining inspectors, or on their default the voters present, may fill such vacancy, preserving, if possible, the bipartisanship of such board; and any person so appointed to fill such vacancy shall take the oath of

§ 52-203. *Contested elections.* In the event of a contested election, the board of elections shall hold a hearing to determine the result of the election.

§ 52-204. *Contested elections.*

§ 52-205. *Contested elections.*

§ 52-206. *Contested elections.* In the event of a contested election, the board of elections shall hold a hearing to determine the result of the election.

§ 52-207. *Contested elections.*

§ 52-208. *Contested elections.*

§ 52-209. *Contested elections.* In the event of a contested election, the board of elections shall hold a hearing to determine the result of the election.

§ 52-210. *Contested elections.*

§ 52-211. *Contested elections.*

ARTICLE 16.

CORRUPT PRACTICES.

Section 540. Political committee defined.

- 541. Statement of campaign payments not made through political committee.
- 542. Personal expenses defined.
- 543. Treasurer of political committee.
- 544. Accounting to treasurer or candidate.
- 545. Vouchers.
- 546. Statement of campaign receipts and payments.
- 547. Campaign contributions to be under true name of contributor.
- 548. Filing and preserving statements.
- 549. Secretary of state to provide forms.
- 550. Contempt proceedings upon default in filing statement.
- 551. Who may maintain proceedings.
- 552. Undertaking for costs.
- 553. Time within which proceedings must be brought.
- 554. Proceedings to be summary.
- 555. Preference over other causes.
- 556. Appeals.
- 557. Subpœnas.
- 558. Personal privilege of witnesses.
- 559. Conduct of hearing.
- 560. Judgment and penalty.
- 561. Application of article limited.

§ 540. Political committee defined.

The term "political committee," under the provisions of this article, shall apply to every committee or combination of three or more persons co-operating to aid or to promote the success or defeat of a political party or principle, or of any proposition submitted to vote at a public election or to aid or take part in the election or defeat of a candidate for public office; or to aid or take part in the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any office whether public or not to be voted for at a primary election; or to aid or defeat the nomination by petition of a candidate under the primary election law; but nothing in this article contained shall apply to or in respect of any committee or organization for the discussion or advancement of political questions or principles without connection with any election.

Derivation: Election Law, § 200, as added by L. 1906, ch. 502, § 1, amended by L. 1910, ch. 429, in effect June 8, 1910.

A political committee exists wherever three or more persons co-operate to bring about the election or defeat of a candidate or a proposition at an election, and if they make any expenditure of money in so doing they must report their receipts and disbursements. *Matter of Woodbury* (1916), 174 App. Div. 569, 160 N. Y. Sup. 902.

§ 541. Statement of campaign payments not made through political committee.

Any person, including a candidate, who to promote the success or defeat of a political party, or to aid or influence the election

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candidate or candidates for public office; or the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings at a primary election, or of a candidate for any office, or not to be voted for at a primary election, or to prevent the nomination of a candidate by the provisions of the primary election law, directly or indirectly, or through another person, shall give, contribute, or shall promise to give, pay, expend, or shall promise to expend money or other valuable thing except to the candidate or a member of a political committee, or authorized thereto in writing by such committee or an agent of such candidate authorized thereto in writing, or except for personal expenses, shall file a statement required by section 201, and forty-six, and shall be subject to all the provisions required of a political committee or the treasurer thereof.

Election Law, § 201, as added by L. 1906, ch. 502, § 1; amended by L. 1907, ch. 596, § 1; amended by L. 1910, ch. 429, in effect.

Statement of expenses by candidates. Report of Ab

al expenses defined.

§ 543. Treasurer of political committee.

Every political committee shall have a treasurer, and shall cause him to keep detailed accounts of all money or its equivalent, received by or promised to, and of all expenditures, disbursements and promises of payment or disbursement made by the committee or any of its officers or members or by any person acting under its authority or in its behalf. No member thereof or other person acting under its authority or in its behalf shall receive any money or its equivalent, or expend or disburse the same until the committee shall have chosen a treasurer. There shall be filed in the office of the secretary of state within five days after the choice of a treasurer a statement signed by at least three members of such committee giving the name and address of the treasurer chosen.

Derivation: Election Law, § 203, as added by L. 1906, ch. 502, § 1, and amended by L. 1907, ch. 596, § 3.

Consolidators' note.—The word "distribution" is changed to "disbursement," as being an obvious clerical error. The change restores the original phraseology and effects an agreement with the rest of the section.

§ 544. Accounting to treasurer or candidate.

Whoever, acting as an officer or member or under the authority of a political committee, or under the authority of a candidate for public office; or for any office whether public or not to be voted for at a primary election; or for nomination at a primary election or convention; or for nomination by petition under the provisions of the election law, receives any money or its equivalent, or promise of the same, or expends or incurs any liability to pay the same, shall, within three days after demand, and in any event within fourteen days after such receipt, expenditure, promise or liability, give to the treasurer of such committee, or to such candidate if an agent authorized by him, a detailed account of the same, with all vouchers required by this article, which shall be a part of the accounts and files of such treasurer or such candidate.

Derivation: Election Law, § 204, as added by L. 1906, ch. 502, § 1; amended by L. 1910, ch. 429, in effect June 8, 1910.

§ 545. Vouchers.

Every payment required to be accounted for shall, unless the total expense payable to any one person be not in excess of five dollars, be vouched for by a receipted bill stating the particulars of expense, and every voucher, receipt or account hereby required,

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ved for fifteen months after the election to

lection Law, § 205, as added by L. 1906, ch. 502, §
07, ch. 590, § 4.

ent of campaign receipts and payments.

r of every political committee which, or an
r agent of which, in connection with any el
ds or disburses any money or its equiva
bility to pay money or its equivalent shall, v
ter such election, file a statement setting for
xpenditures, disbursements and liabilities c
of every officer, member and other person
h case it shall include the amount receive
rson or committee from whom received, the d
amount of every expenditure or disbursemen
rson or committee to whom it was made, an
and unless such expenditure or disbursement
de to another political committee, it shall
rpose of such expenditure or disbursement.
d disbursements in sums under five dollars
by accounted for by separate items, except i
ts made for account of or to political wo
ngers. The statement to be filed by a c

§ 547. Campaign contributions to be under true name of contributor.

No person shall in any name except his own directly or indirectly, himself or through another person, make a payment or a promise of payment to a political committee or to any officer or member thereof, or to any person or persons acting under its authority or in its behalf, nor shall any such committee or any such person or persons knowingly receive a payment or promise of payment, or enter or cause the same to be entered in the accounts or records of such committee, in any name other than that of the person or persons by whom it is made.

Derivation: Election Law, § 207, as added by L. 1906, ch. 502, § 1.

§ 548. Filing and preserving statements.

All statements required by this article shall be filed with the secretary of state, except in those cases where a candidate is required to file a statement elsewhere by section seven hundred and seventy-six of the penal law, and all statements, vouchers, receipts and accounts required by this article shall be preserved for fifteen months after the elections to which they relate and shall be open to public inspection.

Derivation: Election Law, § 208, as added by L. 1906, ch. 502, § 1, amended by L. 1910, ch. 438, in effect June 8, 1910.

§ 549. Secretary of state to provide forms.

The secretary of state shall provide blank forms suitable for the statements above required.

Derivation: Election Law, § 209, as added by L. 1906, ch. 502, § 1.

§ 550. Contempt proceedings upon default in filing statement.

If any person or persons or committee or committees fails to file a statement or account as above required, or if any person or committee files a statement which does not conform to the foregoing requirements in respect to its truth, sufficiency in detail, or otherwise, or if any person or committee has failed to comply with any other of the requirements or provisions of this article, the supreme court or any justice thereof, may compel by order in proceedings for contempt, such person or committee to file a sufficient statement or account, or otherwise comply with the provisions of this article. The applicant for an order, as prescribed in this article,

to the supreme court, or a justice thereof, upon information and oath, setting forth, upon information and oath, the grounds and sources thereof, or upon knowledge of such applicant or applicants, any failure to comply with the provisions of this article, the failure or failures, and the names of the persons or committee or committees, charged with such failure. Except when made by the attorney-general, such petition must be verified in like manner as a verified complaint in the supreme court.

Election Law, § 210, as added by L. 1906, ch. 502, § 1.
 to compel statement. — This article is intended to be construed as to campaign funds and in case of improper expenditure, prosecution of the offender, and, to that end, should be construed. Matter of McLennan, (1910) 65 Min. 109.

must be based upon a petition that states facts and charges with the provisions of the law and the names of the persons or committee or committees, charged with such failure. Matter of McLennan, (1910) 65 Min. 109.

may maintain proceedings.

for an order as prescribed herein may be made by the attorney-general, district attorney, a candidate voted for, or any five qualified voters who voted at such election.

amend the statement already filed, and to furnish the court or justice thereof such further information as the court may require on the subject. Copies of such order shall be served on the attorney-general of the state and on the district attorney of the county wherein such statement is required to be filed.

Derivation: Election Law, § 212, as added by L. 1906, ch. 502, § 1, and amended by L. 1907, ch. 596, § 6.

§ 553. Time within which proceedings must be brought.

Such petition shall be presented within fifty days after any election in respect to which the allegations of such petition shall relate if the statement mentioned therein was filed within the twenty days as herein required; but if the statement shall not have been filed within said twenty days, such petition may be presented at any time not more than sixty days after the filing of the statement. The said petition and order to show cause shall be filed, and any order or judgment made in the proceeding based thereon shall be entered in the office of the clerk of the county in which such election was held, if held wholly within a county, or otherwise in such other office as the court, or a justice thereof, shall direct.

Derivation: Election Law, § 213, as added by L. 1906, ch. 502, § 1, and amended by L. 1907, ch. 596, § 7.

Time for filing petition.—The requirement of the statute that the petition should be filed within thirty days after the election was not satisfied by its presentation to a justice of the Supreme Court within that time. Such presentation, although the justice retained the petition, was not a filing of it within the meaning of the statute; and, the petition not having been filed within the prescribed period, the right to institute the inquest expired and the order directing the inquest should be vacated. *Matter of Lance*, (1907) 55 Misc. 13, 106 N. Y. Supp. 211.

§ 554. Proceedings to be summary.

Upon the return of the order to show cause provided for in section five hundred and fifty-two, the court or justice, shall immediately, and in such manner as the court or justice shall direct, and without respect to any technical requirement, inquire into the facts and circumstances and into such violations of, or failure to comply with, the provisions of this article, as may be alleged in any such petition, or into such other facts and circumstances relative to any such election or to any contribution or expenditure made in connection therewith, which at any time, whether before or during the continuance of such inquest, the court or justice holding such inquest shall deem necessary to secure compliance with the provisions of this article or to punish for a violation thereof. Such other persons as the court, or justice, shall deem necessary or proper to join or bring in as parties to the said proceeding in order to make its order, judgment or writs effective, may be joined as parties in such manner and upon such notice as said court or justice shall direct.

Derivation: Election Law, § 214, as added by L. 1906, ch. 502, § 1, and amended by L. 1907, ch. 596, § 8.

Constitution.—The provision of the Corrupt Practices Act 1L. added to the Supreme Court or to a justice thereof

ELECTION LAW.

§§ 5

inquest and judgment requiring a person or committee
judging a person or committee guilty of contempt
the provision of the Constitution that no person
erty or his property without due process of law.
55 Misc. 13, 106 N. Y. Supp. 211.

ence over other causes.

ers upon, and the investigation of, the charges
shall take precedence and be preferred over al
edings by or before said court, or justice there
r, in the appellate division and in the court of s
Election Law, § 215, as added by L. 1908, ch. 502, § 1

15.

be taken to the appellate division of the suprem
t of appeals, from the orders herein provided
er that appeals are taken from orders of the
reme court, and such appeals shall be consid
courts as appeals from orders.

Election Law, § 216, as added by L. 1908, ch. 502, § 1

nas.

justice holding such inquest may issue subpo
hall be allowed the same fees, whose attendan
the same manner, and who shall be subject to fi
erved with a subpoena in behalf of the state in
n such court.

examine witnesses in their own behalf. Such court or justice shall have power, by a subpoena duces tecum, to compel the production before him of it, for examination, of any books or papers of any kind or of any other thing which he or it may require in the conduct of such inquiry, and which is relevant and material. Such court or justice shall have power to cause any person who shall neglect or refuse to appear before him or it as a witness, having been duly summoned, to be brought before him or it; and any person in attendance as a witness, who shall refuse to be sworn as a witness, or who being sworn shall refuse to answer any proper questions propounded to him, and any person who, having been duly summoned, shall neglect or refuse to appear before such court or justice, may be adjudged guilty of contempt and may be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

Derivation: Election Law, § 219, as added by L. 1906, ch. 502, § 1.

§ 560. Judgment and penalty.

The said court or justice thereof shall render judgment in such proceedings as follows: If such person or persons or committee or committees proceeded against, have failed to file the required statement, or have filed a false or incomplete statement, without willful intent to defeat the provisions of this article, the judgment shall require the person or persons proceeded against to file such statement or such amendment to the statement, as shall render the same true and complete, within ten days of the entry of the judgment, and to pay the costs and expenses of the proceeding. If such person or persons or committee or committees have failed to file a statement, or have filed a false or incomplete statement, and such failure to file or such false or incomplete statement was due to a willful intent to defeat the provisions of this article, or if the person or persons proceeded against shall fail to file the required statement or amendment as directed by a judgment of a court or justice within ten days after the entry of such judgment, the person or persons or committee or committees proceeded against shall be liable to a fine not exceeding one thousand dollars, or imprisonment for not more than one year, or both. If such person or persons or committee or committees have filed a statement complying with the provisions of this article, or if the person or persons, committee or committees proceeded against, or either of them, are not required to file a statement as prescribed herein, the court or justice shall render judgment against the applicant or applicants, and in favor of such person or committee, for his or their costs and disbursements, to be taxed by such court or justice.

Derivation: Election Law, § 220, as added by L. 1906, ch. 502, § 1.

§ 561. Application of article limited.

The provisions of this article shall not be applicable to elections of town or village officers in any town or village, or to any person, association or corporation engaged in the publication or distribution of any newspaper or other publication issued at regular intervals in respect to the ordinary conduct of such business.

Derivation: Election Law, § 221, as added by L. 1906, ch. 502, § 1.

§ 562. Party funds not to be expended for primary purposes.

No contributions of money, or the equivalent thereof, made, directly or indirectly, to any party, or to any party committee or member thereof, or to any person representing or acting on behalf of a party, or any moneys now in the treasury of any party, or party committee, shall be expended in aid of the designation or nomination of any person to be voted for at a primary election, either as a candidate for nomination for public office, or for any party position.

Derivation: Added by L. 1911, ch. 891, § 64, in effect Nov. 15, 1911.

Amended by L. 1913, ch. 890, in effect Dec. 17, 1913.

ARTICLE 17.

LAWS REPEALED; WHEN TO TAKE EFFECT.

laws repealed.
when to take effect.

repealed.

enumerated in the schedule hereto annexed, the
in the last column is hereby repealed.

to take effect.

er shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

Part 1, chapter 6,				
Chapter	Section	Laws of	Chapter	Section
	9	1824 .	316 .	All
	All	1825 .	33 .	All
	All	1826 .	245 .	All
	2	1827 .	179 .	1-7, 10, 1
	2	1828 .	20 .	19 (2d M
	1-25, 27	1828 .	21 .	1, 11 45, 1
	All			480, 81
	All			(2d M
	All	1829 .	139 .	All
	All	1832 .	248 .	All
	All	1832 .	249 .	All
	All (15th Sess.)	1837 .	445 .	All
	All (16th Sess.)	1841 .	301 .	All
	All (16th Sess.)	1842 .	130 .	All

LAWS REPEALED.

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Laws of	Chapter	Section	Laws of	Chapter	Section
1873....	524....	All			Laws 1891] 1 part
1875....	138....	All			amending L. 1888,
1876....	287....	All			Ch. 583, Tit. 20, §§
1877....	28....	All			3-25; 26 all after
1877....	322....	All			the word "board"
1878....	354....	All			in the last line;
1879....	320....	All			27-32
1880....	56....	All	1891....	296....	All
1880....	142....	All	1891....	336....	All
1880....	366....	All	1892....	127....	All
1880....	437....	All	1892....	680....	All
1880....	480....	All	1893....	233....	All
1880....	445....	All	1893....	274....	All
1880....	508....	All	1893....	370....	All
1880....	553....	All	1894....	61....	All
1880....	576....	All	1894....	275....	All
1881....	18....	All	1894....	302....	All
1881....	137....	All	1894....	348....	2-8
1881....	163....	All	1894....	764....	All
1881....	196....	All	1894....	765....	All
1882....	13....	All	1895....	23....	All
1882....	154....	All	1895....	73....	All
1882....	366....	All	1895....	138....	All
1882....	410....	1839-1844, 1846- 1848, 1850-1861, 1864-1866, 1868- 1929, 1931	1895....	158....	All
1883....	316....	All	1895....	810....	All
1883....	380....	All	1895....	909....	All
1883....	422....	All	1895....	991....	All
1883....	508....	All	1895....	992....	All
1884....	161....	All	1895....	993....	All
1885....	267....	3, 4	1895....	1034....	All
1885....	446....	All	1895....	1035....	All
1886....	649....	All	1896....	163....	All
1887....	265....	All	1896....	339....	All
1888....	583....	(For sections re- pealed in title xx. as amended, see chapter 236, Laws 1891, in this sched- ule) Title 20, §§ 3- 25; 26 all after the word "board," in the last line; 27-32	1896....	909....	All
1889....	1....	All	1897....	379....	All
1890....	117....	All	1897....	410....	All
1890....	169....	All	1897....	449....	All
1890....	202....	All	1897....	450....	All
1890....	321....	All	1897....	608....	All
1890....	330....	All	1897....	609....	All
1890....	355....	All	1898....	168....	All
1891....	7....	All	1898....	179....	All
1891....	234....	(Sections 3 to 25, inclusive, all after the word "board" in the last line of section 26, and sec- tions 27 to 32, in- clusive, of title xx. of chapter 583, Laws 1888, as amended by chapter 236,	1898....	335....	All
			1898....	340....	All
			1898....	363....	9
			1898....	674....	All
			1898....	675....	All
			1898....	676....	All
			1899....	58....	All
			1899....	268....	All
			1899....	363....	All
			1899....	466....	All
			1899....	467....	All
			1899....	473....	All
			1899....	499....	All
			1899....	630....	All
			1899....	641....	All
			1899....	649....	All
			1900....	202....	All
			1900....	204....	All
			1900....	225....	All
			1900....	381....	All
			1900....	506....	All

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Chapter	Section	Laws of	Chapter	Section
18.	All	1905 ...	165	All
19.	All	1905 ...	207	All
20.	All	1905 ...	229	All
21.	All	1905 ...	243	All
22.	All	1905 ...	274	All
23.	All	1905 ...	278	All
24.	All	1905 ...	289	All
25.	All	1906 ...	159	All
26.	All	1906 ...	227	All
27.	All	1906 ...	259	All
28.	All	1906 ...	331	All
29.	All	1906 ...	406	All
30.	1, 2	1906 ...	428	All
31.	All	1906 ...	502	All
32.	3, 4	1906 ...	570	All
33.	All	1906 ...	642	All
34.	All	1907 ...	119	All
35.	All	1907 ...	255	All
36.	All	1907 ...	296	All
37.	All	1907 ...	470	All
38.	All	1907 ...	472	All
39.	All	1907 ...	504	All
40.	All	1907 ...	596	All
41.	All	1907 ...	634	All
42.	All	1907 ...	744	All
43.	All	1904 ...	106	All
44.	All	1908 ...	450	All
45.	All	1908 ...	463	All
46.	All	1908 ...	464	All
47.	All	1908 ...	480	All
48.	All	1908 ...	488	All
49.	All	1908 ...	489	All
50.	All	1908 ...	491	All

L. 1792, ch. 1 (16th Sess.). — Repeals L. 1792, ch. 72, § 2, which apportions the presidential electors for the year 1792, among four districts of the state.

L. 1792, ch. 5. — Regulates the election of representatives in congress. Expires by limitation with the taking of a future census of the inhabitants of this state. Temporary and obsolete.

L. 1793, ch. 14. — Provides for the election of senators in congress and expires by limitation forty days after the first meeting of the legislature after January 1, 1800. Temporary and obsolete.

L. 1796, ch. 32. — L. 1813, ch. 202, repeals all acts "within the purview or operation" of the revised laws of 1813, one of which, 2 R. L., ch. 25, p. 246, relates to the election of president and vice-president and contains the substance of the statute repealed.

L. 1796, ch. 57, § 32. — Continues L. 1792, ch. 5, which regulates the election of representatives in congress, until March 1, 1797. Temporary and obsolete.

L. 1797, ch. 62; L. 1799, ch. 51. — L. 1801, ch. 193, repeals all acts "within the purview or operation" of the revised acts of 1801, one of which, L. 1801, ch. 61, regulates the election of governor, lieutenant-governor, senators and members of assembly, and another of which, L. 1801, ch. 64, regulates the election of representatives in congress. The two contain the substance of the statutes repealed.

L. 1800, ch. 23. — Revives L. 1793, ch. 14, which regulates the election of senators in congress. L. 1801, ch. 24, was afterward enacted to regulate the same subject. Abrogated and obsolete.

L. 1801, ch. 64. — L. 1813, ch. 202, repeals all acts "within the purview or operation" of the revised laws of 1813, one of which, 2 R. L., ch. 46, p. 243, regulates the elections of representatives in congress and contains the substance of the statute repealed.

L. 1802, ch. 81. — L. 1813, ch. 202, repeals all acts "within the purview or operation" of the revised laws of 1813, one of which, 2 R. L., ch. 68, p. 241, apportions the senate and assembly districts and contains the substance of the statute repealed.

L. 1804, ch. 2. — L. 1827, ch. 9, § 4, ¶ 1, repeals all laws "consolidated and re-enacted in" R. S., pt. 1, ch. 6; R. S., pt. 1, ch. 6, tit. 8, art. 3, § 11, contains the substance of the statute repealed.

L. 1809, ch. 16. — L. 1813, ch. 202, repeals all acts "within the purview or operation" of the revised laws of 1813, one of which, 2 R. L., ch. 25, p. 246, provides for the compensation of presidential electors and contains the substance of the statute repealed.

L. 1810, ch. 193, § 12. — L. 1813, ch. 202, repeals all acts "within the purview or operation" of the revised laws of 1813, one of which, 2 R. L., ch. 41, p. 247, provides for the return by inspectors of elections of votes for governor, lieutenant-governor, senators and representatives in congress and contains the substance of the statute repealed.

L. 1812, ch. 56. — L. 1813, ch. 202, repeals all acts "within the purview or operation" of the revised laws of 1813, one of which, 2 R. L., ch. 25, p. 246, regulates the meetings of presidential electors and contains the substance of the statute repealed.

As the statutes covered by express repealing acts have been repealed by the Consolidated Laws, the repealing statutes have been recommended for repeal.

L. 1812, ch. 169. — L. 1813, ch. 202, repeals all acts "within the purview or operation" of the revised laws of 1813, one of which, 2 R. L., ch. 46, p. 243, regulates the election of representatives in congress and contains the substance of the statute repealed.

2 R. L., 1813, ch. 25, p. 246. — Regulates the proceedings of presidential electors. So much as is inconsistent with L. 1825, ch. 33, is repealed by § 5 of that act. Abrogated and obsolete.

2 R. L., 1813, ch. 41, p. 247. — Regulates elections of governor, lieutenant-governor, senators, and members of assembly. Superseded by L. 1822, ch. 250.

2 R. L., 1813, ch. 46, p. 243. — Regulates the election of representatives in congress. Superseded by L. 1822, ch. 250.

L. 1819, ch. 37. — Enacts that the election of representatives in congress

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on the last Tuesday of April, 1821, and in every case superseded by L. 1822, ch. 250.

246.—Section 1 requires county clerks to make a return of the polls of state before May 21, 1821, and requires the assessor to complete their proceedings thereon. It requires the secretary of state to send by express, to the legislature, a copy of the report of the committee on the petition calling for a constitutional convention, pursuant to § 4. Temporary and obsolete. Section 3 provides that judges of any court of common pleas, clerk of any court, or any person authorized to administer oaths may qualify canvassers at the secretary's office. L. 1822, ch. 250, § 14, provides that any person may qualify before the chancellor or one of the justices of the supreme court, or a master in chancery or the recorder of the city of New York. The same law repeals all inconsistent statutes.

247, § 1.—Provides that state canvassers may deliver their report within twenty eight days the result of a special election for the office of representative in congress. Superseded by L. 1822, ch. 250.

248.—Provides for a special vote on the manner of electing representatives. Temporary and obsolete.

249, § 19 (2d meeting).—In accordance with section 33 of this same act, section 19 (not a part of the act) was printed by the revisers as § 20 of R. S., pt. 1, ch. 6, was repealed by L. 1842, ch. 130, tit. 8, § 1.

250.—Alters the time of electing representatives. Superseded by L. 1842, ch. 130.

251.—Provides for the publication and distribution of the manner of choosing presidential electors, and for the compensation of messengers employed under the act. § 6 (probably error for § 26). Temporary.

252.—Regulates the transmission to the secretary of state of statements of canvass by boards of county canvassers. Amended by L. 1829, ch. 139, §§ 5, 11. Obsolete.

253.—Provides for the transmission to the secretary of state of statements of canvass by boards of county canvassers. Amended by L. 1829, ch. 139, §§ 5, 11. Obsolete.

L. 1888, ch. 583; L. 1891, ch. 236. — Change made in language used in section column in order to conform to the general plan adopted for the proposed laws. Substance not changed.

L. 1890, ch. 330. — Provides special appropriations for the expenses of election in 1890. Temporary and obsolete.

L. 1892, ch. 127. — Authorizes the use of the Myers' automatic ballot cabinets at elections of town officers. Superseded by Election Law (L. 1896, ch. 909), article 7 as added by L. 1899, ch. 466. Obsolete.

L. 1894, ch. 348. — Consists of eight sections. Section 1, amending "old" Town Law, is repealed by Town Law. Sections 2, 3, 5 amend sections 11, 12, 15 of "old" Election Law (L. 1892, ch. 680). Section 4 relates to election officers in New York city. Section 6 relates to term of election officers. All these sections were superseded by Election Law of 1896, ch. 909. Section 7 repeals inconsistent acts and section 8 states when act shall take effect.

L. 1895, ch. 1035. — Amends Election Law (L. 1892, ch. 680), section 11 relating to election officers to "read as follows." Superseded by Election Law (L. 1896, ch. 909). Obsolete.

L. 1896, ch. 909. — This statute which is the "old" Election Law is recommended for repeal because its live provisions have been incorporated in Election Law.

L. 1897, ch. 379. — All of statute except sections 22, 23, 27, 28 have been heretofore amended "to read as follows." Section 27 renumbered certain sections of the old Election Law and section 28 states when act takes effect; recommended for repeal. Sections 22 and 23 consolidated in Election Law, §§ 431 and 437.

L. 1897, ch. 609. — Consolidated in Election Law, § 330.

L. 1898, ch. 335. — All of this statute except sections 6, 7, part, and 8 has been heretofore amended "to read as follows." Section 8 states when act takes effect; recommended for repeal. Sections 6 and 7 part consolidated in Election Law, §§ 358, 366-372.

L. 1898, ch. 674. — Sections 14, 15 have been superseded by amendment "to read as follows." Balance of act consolidated in Election Law, §§ 500-512, 515 part, 516-522.

L. 1899, ch. 58. — Consolidated in Election Law, §§ 514, 515 part.

L. 1899, ch. 466. — Part of section 1 amended "to read as follows." Balance of section 1 consolidated in Election Law, §§ 390, 394-396, 399-402, 409-412, 417, 418, 420 and 421. Section 2 rennumbers article and certain sections of Election Law. Section 3 is the enacting clause; recommended for repeal.

L. 1899, ch. 473. — Part of statute heretofore amended "to read as follows." Balance of act consolidated in Election Law.

L. 1899, ch. 630. — Sections 1-5, 8, 10 amended so as to read as follows. Section 7 repeals "old Election Law, § 33, subd. 2, and rennumbers subds. 3 and 4. Sections 6, 9, 11 consolidated in Election Law. Section 12 states when act takes effect.

L. 1899, ch. 641. — Consolidated in Election Law.

L. 1900, ch. 202. — Section 1 amended "to read as follows." Section 2 consolidated in Election Law. Section 3 states when act takes effect.

L. 1900, ch. 225. — Section 1 amended "to read as follows." Section 2 consolidated in Election Law. Section 3 states when act takes effect.

L. 1900, ch. 381. — Consists of six sections. Sections 1-3, 4, part, amending Election Law, § 82; section 5 amended so as to read as follows. Section 4 amending Election Law, § 85, consolidated in Election Law. Section 6 States when act takes effect.

L. 1901, ch. 95. — Consists of twenty-two sections. Sections 1-5 part, 6, 8, 9-18, 20 amended so as to read as follows. Section 22 states when act takes effect.

L. 1901, ch. 360. — Consolidated in Election Law.

L. 1901, ch. 530. — Consists of eight sections. Section 7 amended so as to read as follows. Section 8 states when act shall take effect.

L. 1901, ch. 536, §§ 1, 2. — Consists of six sections. Section 3 is repealed by Town Law. Section 4 is a repeal. Section 5 is a saving clause

ELECTION LAW.

any nature and now obsolete. Section 6 states when
 Remainder of statute section 1, 2 consolidated in Election
 ch. 544. Consolidated in Election Law
 ch. 598. Consists of four sections. Sections 1, 2,
 and are repealed by Town Law. Section 3 is consolidated
 in Section 4 states when act shall take effect.
 ch. 654. Incorporated in Election Law
 ch. 105. Consists of sixteen sections. Section 1 amends
 Section 15 is temporary. Section 16 states when
 Remainder of act incorporated in Election Law
 ch. 405. Consists of six sections. Sections 1, 3-5
 as follows. Section 4 states when act takes effect.
 in Election Law
 ch. 111. Consists of seven sections. Sections 1-5
 as follows. Section 7 states when act takes effect.
 in Election Law
 ch. 122. Incorporated in Election Law.
 ch. 595. Incorporated in Election Law.
 ch. 70. Incorporated in Election Law
 ch. 350. Incorporated in Election Law
 ch. 394. Consists of fourteen sections. Sections
 to read as follows. Section 11 states when act shall be
 of act consolidated in Election Law
 ch. 487. Consolidated in Election Law
 ch. 488. Consolidated in Election Law
 ch. 733. Consists of three sections. Section 2 amends
 follows. Section 3 states when act shall take effect.
 in Election Law
 ch. 207. Consolidated in Election Law
 ch. 229. Consolidated in Election Law
 ch. 643. Consists of twenty-five sections. Sections
 as to read as follows. Section 25 states when act
 remainder of act consolidated in Election Law
 ch. 674. Consists of five sections. Section 3 part
 and as follows." Section 4 is a temporary provision.



PART 2.

CONSTITUTIONAL PROVISIONS
CONCERNING
ELECTIONS AND ELECTIVE OFFICERS.



CONSTITUTION

OF THE

United States of America.

PROVISIONS THEREIN, CONCERNING ELECTIONS AND ELECTIVE OFFICERS.

ARTICLE I.

Section 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Section 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.*

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.*

* See amendment, post, providing for direct election of U. S. senators.

CONSTITUTIONAL PROVISIONS.

shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and, when elected, be an inhabitant of that state for which

shall have the sole power to try all impeachments. When sitting, they shall be on oath or affirmation. When the United States is tried, the chief justice shall preside: And no conviction shall take effect without the concurrence of two-thirds of the

cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable to indictment, trial, judgment and punishment, according to law.

The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof: but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

Each house shall be the judge of the elections, returns and qualifications of its own members, and, by a vote of two-thirds, expel a member.

No senator or representative shall, during the time for which he is elected, be appointed to any civil office under the United States, which shall have been created, or the emoluments of which shall have been increased during such time; and no person holding such office shall be a member of either house during his continuance in office.

The congress shall have power to establish a uniform rule of naturalization, and to make all laws which may be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

officer shall act accordingly, until the disability be removed, or a president shall be elected.

Before he enter on the execution of his office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States."

Section 2. The president * * * shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

Section 4. The president, vice-president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE VI.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

12th AMENDMENT.

The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate;—The president of the senate shall, in presence of the senate and house of representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

14th AMENDMENT.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall

any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may by a vote of two-thirds of each house, remove such disability.

Section 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

15th AMENDMENT.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

Section 2. The congress shall have power to enforce this article by appropriate legislation.

AMENDMENT TO THE U. S. CONSTITUTION PROVIDING THAT U. S. SENATORS SHALL BE ELECTED BY THE PEOPLE OF THE SEVERAL STATES *

(Certified by the Secretary of State, May 31, 1913)

The senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, that the legislature of any state may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the constitution.

* Note.—The joint congressional resolution passed in 1912 by the 62d congress, which proposed this amendment, recites that such amendment is in lieu of the first paragraph of section three of article I of the constitution of the United States, and in lieu of so much of paragraph two of the same section as relates to the filling of vacancies.

CONSTITUTION
OF THE
State of New York.

PROVISIONS THEREIN CONCERNING ELECTIONS
AND ELECTIVE OFFICERS.

ARTICLE I.

§ 1. Persons not to be disfranchised.

No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

Const. 1846, art. I, § 1.

ARTICLE II.

§ 1. Qualification of voters.

Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election district in which they respectively reside.

Const. 1846, art. II, § 1.

§ 2. Persons excluded from the right of suffrage.

No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not

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promised to pay, contributed, offered or promised to be paid or used, any money or other valuable thing in reward for the giving or withholding a vote at such election, or promise to influence the giving or withholding of a vote, or become directly or indirectly interested in any ballot on the result of such election. The Legislature shall protect the right of suffrage all persons convicted of bribery

art. II, § 2.

occupations and conditions not to affect right of voting. no person shall be deemed to have gained or lost the right of voting, by reason of his presence or absence, while employed in the United States, nor while engaged in the navigation of the United States, or of the high seas, nor while a student of learning, nor while kept at any almshouse, or other institution wholly or partly supported at public expense or by the State, or in any public prison

art. II, § 3

registration and election laws to be passed.

made for ascertaining, by proper proofs, the citizenship of the electors, to the right of suffrage hereby established, and for the purpose of which registration shall be completed at least ten days before the election. Such registration shall not be required for any person except by express provision of law. In cities and towns having a population of ten thousand inhabitants or more, according to the last preceding census, all voters shall be registered upon persons residing in such cities or villages shall be required to appear in person for registration at the first meeting of the board of registration, and the registry of voters

art. II, § 4

two years. The Assembly shall consist of one hundred and fifty members who shall be chosen for one year.

Const. 1846, art. III, § 2.

§ 3. Senate districts.

The State shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive.

District number one (1) shall consist of the counties of Suffolk and Richmond.

District number two (2) shall consist of the county of Queens.

District number three (3) shall consist of that part of the county of Kings comprising the first, second, third, fourth, fifth and sixth wards of the city of Brooklyn.

District number four (4) shall consist of that part of the county of Kings comprising the seventh, thirteenth, nineteenth and twenty-first wards of the city of Brooklyn.

District number five (5) shall consist of that part of the county of Kings comprising the eighth, tenth, twelfth and thirtieth wards of the city of Brooklyn, and the ward of the city of Brooklyn which was formerly the town of Gravesend.

District number six (6) shall consist of that part of the county of Kings comprising the ninth, eleventh, twentieth and twenty-second wards of the city of Brooklyn.

District number seven (7) shall consist of that part of the county of Kings comprising the fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

District number eight (8) shall consist of that part of the county of Kings comprising the twenty-third, twenty-fourth, twenty-fifth and twenty-ninth wards of the city of Brooklyn, and the town of Flatlands.

District number nine (9) shall consist of that part of the county of Kings comprising the eighteenth, twenty-sixth, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

District number ten (10) shall consist of that part of the county of New York within and bounded by a line beginning at Canal street and the Hudson river, and running thence along Canal street, Hudson street, Duane street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Canal street, the Bowery, Division street, Canal street and the East river to the place of beginning, and also to the place of beginning.

District number eleven (11) shall consist of that part of the county of New York lying north of district number ten, and bounded by a line beginning at the place of beginning of district number ten, and running thence along Broadway, Fulton street, the Bowery and Canal street to the place of beginning, Avenue A, Second street, Avenue B, Canal street, Third street, Norfolk street, Duane street, Broadway and Canal street to the place of beginning.

District number twelve (12) shall consist of that part of the county of New York lying north of district number eleven, and bounded by a line beginning at the place of beginning of district number eleven, and running thence through Jackson street, Duane street, Broadway, Canal street, Clinton street, Avenue B, Sullivan street, Avenue C, Third street, East River street, and the East river to the place of beginning.

District number thirteen (13) shall consist of that part of the county of New York lying north of district number twelve, and bounded by a line beginning at the place of beginning of district number twelve, and running thence along Canal street, Duane street, Broadway, Canal street, Sullivan street, Duane street, Broadway, Canal street, Third street, East River street, and the East river to the place of beginning.

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number fourteen (14) shall consist of that part of the city lying north of districts numbers twelve and thirteen, and within and beginning by a line beginning at East Fourteenth street and thence along East Fourteenth street, Irving place, Third avenue, East Twenty-third street, Lexington street, Third avenue East Fifty-second street, and thence to the place of beginning.

number fifteen (15) shall consist of that part of the city lying north of district number thirteen, and within and beginning at the junction of West Fourteenth street and Sixth avenue, thence along Sixth avenue, West Fifteenth street, Seventh street, Eighth avenue, and the transverse road north of East Twenty-third street, Third avenue, East Nineteenth street, and Fourteenth street, to the place of beginning.

number sixteen (16) shall consist of that part of the city lying north of district number thirteen, and within and beginning at Seventh avenue and West Nineteenth street, thence along West Nineteenth street, Eighth avenue, West Twentieth street, West Forty-sixth street, Tenth avenue, West Eleventh avenue, West Fortieth street and Seventh avenue, to the place of beginning.

number seventeen (17) shall consist of that part of the city lying north of district number sixteen, and within and beginning at the junction of Eighth avenue and West Forty-third street, thence along West Forty-third street, Tenth avenue, West Eleventh avenue, the Hudson river, West Eighty-ninth street, Tenth or Eleventh street, Ninth or Columbus avenue, West Twelfth and Eighth avenue, to the place of beginning.

number eighteen (18) shall consist of that part of the city lying north of district number fourteen, and within and beginning at the junction of East Fifty-second street and Third avenue, thence along East Fifty-second street, Third avenue, Lexington avenue, East Eighty-fourth street, East Ninety-third street and the East River to the place of beginning.

avenue and the Harlem river to the place of beginning; and all that part of the county of New York not hereinbefore described.

District number twenty-two (22) shall consist of the county of Westchester.

District number twenty-three (23) shall consist of the counties of Orange and Rockland.

District number twenty-four (24) shall consist of the counties of Dutchess, Columbia and Putnam.

District number twenty-five (25) shall consist of the counties of Ulster and Greene.

District number twenty-six (26) shall consist of the counties of Delaware, Chenango and Sullivan.

District number twenty-seven (27) shall consist of the counties of Montgomery, Fulton, Hamilton and Schoharie.

District number twenty-eight (28) shall consist of the counties of Saratoga, Schenectady and Washington.

District number twenty-nine (29) shall consist of the county of Albany.

District number thirty (30) shall consist of the county of Rensselaer.

District number thirty-one (31) shall consist of the counties of Clinton, Essex and Warren.

District number thirty-two (32) shall consist of the counties of St. Lawrence and Franklin.

District number thirty-three (33) shall consist of the counties of Otsego and Herkimer.

District number thirty-four (34) shall consist of the county of Oneida.

District number thirty-five (35) shall consist of the counties of Jefferson and Lewis.

District number thirty-six (36) shall consist of the county of Onondaga.

District number thirty-seven (37) shall consist of the counties of Oswego and Madison.

District number thirty-eight (38) shall consist of the counties of Broome, Cortland and Tioga.

District number thirty-nine (39) shall consist of the counties of Cayuga and Seneca.

District number forty (40) shall consist of the counties of Chemung, Tompkins and Schuyler.

District number forty-one (41) shall consist of the counties of Steuben and Yates.

District number forty-two (42) shall consist of the counties of Ontario and Wayne.

District number forty-three (43) shall consist of that part of the county of Monroe comprising the towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush and Webster, and the fourth, sixth, seventh, eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Rochester, as at present constituted.

District number forty-four (44) shall consist of that part of the county of Monroe comprising the towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland, and the first, second, third, fifth, ninth, tenth, eleventh, fifteenth, nineteenth and twentieth wards of the city of Rochester, as at present constituted.

District number forty-five (45) shall consist of the counties of Niagara, Genesee and Orleans.

District number forty-six (46) shall consist of the counties of Allegany, Livingston and Wyoming.

District number forty-seven (47) shall consist of that part of the county of Erie comprising the first, second, third, sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, as at present constituted.

District number forty-eight (48) shall consist of that part of the county of Erie comprising the fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and sixteenth wards of the city of Buffalo, as at present constituted.

District number forty-nine (49) shall consist of that part of the county of Erie comprising the seventeenth, eighteenth and twenty-fifth wards of the city

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present constituted, and all the remainder of the same as before described.

Article 50 shall consist of the counties of Champaign

Art. 111, § 3.

Counties and reapportionments.

One of the inhabitants of the State shall be taken by the Secretary of State during the months of May and June, one thousand nine hundred and five, and in the same month after; and the said districts shall be so altered by the regular session after the return of every enumeration that each district shall contain as nearly as may be an equal number of inhabitants, including aliens, and be in as compact form as practicable, and shall be so altered until the return of another enumeration, and no district shall be divided into two or more districts, and no county shall be divided into two or more counties, except to make two or more senate districts. No town, and no block in a city included in a senate district shall be divided in the formation of senate districts, and no district shall contain a greater excess in population over an average county, than the population of a town or block included in a senate district. Counties, towns or blocks which, from their location, in either of two districts, shall be so placed as to be nearly equal in number of inhabitants, each being allowed to have four or more senators unless it shall have more than one. No county shall have more than one-third of the total number of senators of the territory thereof as now organized, or which are separated only by public waters, or one-half of all the senators.

Proportioning senators shall always be obtained by dividing the total number of inhabitants, excluding aliens, by fifty, and the Senate shall be composed of fifty members, except that if any county having three senators of any apportionment shall be entitled to such an additional senator or senators, such additional senator or senators shall be added to the fifty members and the total

members of assembly than a county having a greater number of inhabitants, excluding aliens.

Until after the next enumeration, members of the Assembly shall be apportioned to the several counties as follows: Albany county, four members; Allegany county, one member; Broome county, two members; Cattaraugus county, two members; Cayuga county, two members; Chautauqua county, two members; Chemung county, one member; Chenango county, one member; Clinton county, one member; Columbia county, one member; Cortland county, one member; Delaware county, one member; Dutchess county, two members; Erie county, eight members; Essex county, one member; Franklin county, one member; Fulton and Hamilton counties, one member; Genesee county, one member; Greene county, one member; Herkimer county, one member; Jefferson county, two members; Kings county, twenty-one members; Lewis county, one member; Livingston county, one member; Madison county, one member; Monroe county, four members; Montgomery county, one member; New York county, thirty-five members; Niagara county, two members; Oneida county, three members; Onondaga county, four members; Ontario county, one member; Orange county, two members; Orleans county, one member; Oswego county, two members; Otsego county, one member; Putnam county, one member; Queens county, three members; Rensselaer county, three members; Richmond county, one member; Rockland county, one member; St. Lawrence county, two members; Saratoga county, one member; Schenectady county, one member; Schoharie county, one member; Schuyler county, one member; Seneca county, one member; Steuben county, two members; Suffolk county, two members; Sullivan county, one member; Tioga county, one member; Tompkins county, one member; Ulster county, two members; Warren county, one member; Washington county, one member; Wayne county, one member; Westchester county, three members; Wyoming county, one member, and Yates county, one member.

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble on the second Tuesday of June, one thousand eight hundred and ninety-five, and at such times as the Legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment, equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the Secretary of State and of the clerk of such county, a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the last preceding enumeration; and such apportionment and districts shall remain unaltered until another enumeration shall be made, as herein provided; but said division of the city of Brooklyn and the county of Kings to be made on the second Tuesday of June, one thousand eight hundred and ninety-five, shall be made by the common council of the said city and the board of supervisors of said county, assembled in joint session. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any district contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens; but in the division of cities under the first apportionment, regard shall be had to the number of inhabitants, excluding aliens, of the election districts according to the State enumeration of one thousand eight

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ity two, so far as may be, instead of blocks. Nothing
out the division, at any time, of counties and towns,
ans by the Legislature.

ment by the Legislature, or other body, shall be as
preme Court, at the suit of any citizen, under such
as the Legislature may prescribe, and any count
y be pending involving an apportionment, shall
ver all other causes and proceedings, and if said
shall convene promptly for the disposition of the m
art. III, § 5.

tion of members.

of the Legislature shall receive for his services as
ousand five hundred dollars. The members of eith
the sum of one dollar for every ten miles they sh
returning from their place of meeting, once in each
al route. Senators, when the Senate alone is con
sion, or when serving as members of the court for
and such members of the Assembly, not exceeding
be appointed managers of an impeachment, shall r
once of ten dollars a day.

art. III, § 6.

ointments of members void.

the Legislature shall receive any civil appointmen
Senate of the United States, from the Governor, th
r from the Legislature, or from any city governmen
h he shall have been elected; and all such appointm
or any such member for any such office or appointm

art. III, § 7

§ 18. Cases in which private and local bills shall not be passed.

The legislature shall not pass a private or local bill in any of the following cases:

Providing for election of members of boards of supervisors.

The opening and conducting of elections or designating places of voting.

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment, may be provided for by general laws. * * *

§ 26. Board of supervisors.

There shall be in each county, except in a county wholly included in a city, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen or other legislative body of the city. [As amended in 1899.]

Const. 1846, art. III, § 22, added in 1874.

ARTICLE IV.

§ 1. Executive power.

The executive power shall be vested in a Governor, who shall hold his office for two years; a Lieutenant-Governor shall be chosen at the same time, and for the same term. The Governor and Lieutenant-Governor elected next preceding the time when this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six, and their successors shall be chosen at the general election in that year.

Const. 1846, art. IV, § 1.

§ 2. Qualifications of governor and lieutenant-governor.

No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this State.

Const. 1846, art. IV, § 2.

§ 3. Election of governor and lieutenant-governor.

The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature at its next annual session shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

Const. 1846, art. IV, § 3.

§ 6. When lieutenant-governor to act as governor.

In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the

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use. But when the Governor shall, with the consent of the State, in time of war, at the head of a militia shall continue Commander-in-Chief of all the militia.

Art. IV, § 6.

Qualifications and duties of Lieutenant-governor; see governorship.

Governor shall possess the same qualifications of elector as Governor. He shall be president of the Senate, but shall not vote therein. If during a vacancy of the office of Governor shall be impeached, displaced, resign, die, or refuse to perform the duties of his office, or be absent from the State, the Senate shall act as Governor until the vacancy shall cease, and if the President of the Senate for any reason become incapable of performing the duties pertaining to the office, the Speaker of the Assembly shall act as Governor until the disability shall cease.

Art. IV, § 7.

ARTICLE V.

Officers.

of State, Comptroller, Treasurer, Attorney-General and all other officers shall be chosen at a general election, at the time of the election of the Governor and Lieutenant Governor, and shall hold office for the term of years except as provided in section two of this article. The salary of the Speaker of the Assembly, excepting the Speaker of the Assembly, shall not be increased or diminished during the term of his office, and shall be payable to him in full.

the next session of the Legislature, whenever it shall appear to him that such Treasurer has, in any particular, violated his duty. The Governor shall appoint a competent person to discharge the duties of the office during such suspension of the Treasurer.

Const. 1846, art. V, § 7.

§ 8. Certain offices abolished.

All offices for the weighing, gauging, measuring, culling or inspecting any merchandise, produce, manufacture or commodity whatever, are hereby abolished; and no such office shall hereafter be created by law; but nothing in this section contained shall abrogate any office created for the purpose of protecting the public health or the interests of the State in its property, revenue, tolls or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

Const. 1846, art. V, § 8.

ARTICLE VI.

§ 1. Supreme court; how constituted; judicial districts.

The Supreme Court is continued with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law not inconsistent with this article. The existing judicial districts of the State are continued until changed as hereinafter provided. The Supreme Court shall consist of the Justices now in office, and of the Judges transferred thereto by the fifth section of this article, all of whom shall continue to be Justices of the Supreme Court during their respective terms, and of twelve additional Justices who shall reside in and be chosen by the electors of, the several existing judicial districts, three in the first district, three in the second, and one in each of the other districts; and of their successors. The successors of said Justices shall be chosen by the electors of their respective judicial districts. The Legislature may alter the judicial districts once after every enumeration under the Constitution, of the inhabitants of the State, and thereupon reapportion the Justices to be thereafter elected in the districts so altered. The Legislature may from time to time increase the number of justices in any judicial district except that the number of justices in the first and second district or in any of the districts into which the second district may be divided, shall not be increased to exceed one justice for each eighty thousand, or fraction over forty thousand of the population thereof, as shown by the last State, or Federal census or enumeration, and except that the number of justices in any other district shall not be increased to exceed one justice for each sixty thousand or fraction over thirty-five thousand of the population thereof as shown by the last State or Federal census or enumeration. The Legislature may erect out of the second judicial district as now constituted, another judicial district and apportion the justices in office between the districts, and provide for the election of additional justices in the new district not exceeding the limit herein provided.

Const. 1846, art. VI, § 6, amended in 1905.

§ 2. Judicial departments; appellate division, how constituted; governor to designate justices; reporter; time and place of holding courts.

The Legislature shall divide the State into four judicial departments. The first department shall consist of the county of New York; the others shall be bounded by county lines, and be compact and equal in population as nearly as may be. Once every ten years the Legislature may alter the judicial departments, but without increasing the number thereof.

There shall be an Appellate Division of the Supreme Court, consisting of seven Justices in the first department, and of five Justices in each of the other departments. In each department four shall constitute a quorum, and

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Two of three shall be necessary to a decision. No motion shall be granted in any case.

When the Justices elected to the Supreme Court the Governor shall constitute the Appellate Division in each department, and shall designate the Presiding Justice thereof, who shall be a resident of the department, and shall be a resident of the department for the term of office, and shall be designated for terms of five years or less of their respective terms of office, if less than the term as the terms of such designations expire, or make new designations. A majority of the Justices of the Appellate Division, in each department shall be competent to act. He may also make temporary designations in the absence of any Justice in the Appellate Division. The Presiding Justice of any Appellate Division shall certify to the additional Justices are needed for the speedy disposition of its business. Whenever the Appellate Division in any department is unable to dispose of its business within a reasonable time, a majority of the Justices of the several departments at a meeting called by the Presiding Justice of the department in arrears may transfer any Justice of such department to any other department for hearing.

No Justice of the Appellate Division shall, within the limits of his department, be designated to perform the duties of an Justice of the Supreme Court, or exercise any of the powers of a Justice of the Supreme Court, or sit as a Justice out of court, and those pertaining to the hearing and decision of motions submitted by any party to such Justice, when not actually engaged in performing the duties of an Appellate Justice in the department to which he is assigned. From and after the last day of December, 1892, the Appellate Division shall have the jurisdiction of the Supreme Court in any county or judicial district in the State. From and after the last day of December, 1892, the Appellate Division shall have the jurisdiction of the Supreme Court at its General Terms and be the Court of Common Pleas for the City and County of New York, the Superior Court of the County of Brooklyn, and such additional jurisdiction as may be conferred by the Legislature.

records, papers and documents of or belonging to such courts, shall be deposited in the offices of the Clerks of the several counties in which said courts now exist; and all actions and proceedings then pending in such courts shall be transferred to the Supreme Court for hearing and determination. The Judges of said courts in office on the first day of January, one thousand eight hundred and ninety-six, shall, for the remainder of the term for which they were elected or appointed, be Justices of the Supreme Court; but they shall sit only in the counties in which they were elected or appointed. Their salaries shall be paid by the said counties respectively, and shall be the same as the salaries of the other Justices of the Supreme Court residing in the same counties. Their successors shall be elected as Justices of the Supreme Court by the electors of the judicial districts in which they respectively reside.

The jurisdiction now exercised by the several courts hereby abolished, shall be vested in the Supreme Court. Appeals from inferior and local courts now heard in the Court of Common Pleas for the City and County of New York and the Superior Court of Buffalo, shall be heard in the Supreme Court in such manner and by such Justice or Justices as the Appellate Divisions in the respective departments which include New York and Buffalo shall direct, unless otherwise provided by the Legislature.

New.

§ 7. Court of appeals.

The Court of Appeals is continued. It shall consist of the Chief Judge and Associate Judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the State. The official terms of the Chief Judge and Associate Judges shall be fourteen years from and including the first day of January next after their election. Five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have power to appoint and to remove its reporter, clerk and attendants. Whenever and as often as a majority of the Judges of the Court of Appeals shall certify to the Governor that said court is unable, by reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the Governor shall designate not more than four Justices of the Supreme Court to serve as Associate Judges of Court of Appeals. The Justices so designated shall be relieved from their duties as Justices of the Supreme Court and shall serve as Associate Judges of the Court of Appeals until the causes undisposed of in said court are reduced to two hundred, when they shall return to the Supreme Court. The Governor may designate Justices of the Supreme Court to fill vacancies. No Justice shall serve as Associate Judge of the Court of Appeals except while holding the office of Justice of the Supreme Court, and no more than seven Judges shall sit in any case. [As amended in 1899.]

Const. 1846, art. VI, § 3, amended in 1869.

§ 8. Vacancy in court of appeals, how filled.

When a vacancy shall occur otherwise than by expiration of term, in the office of Chief or Associate Judge of the Court of Appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the Governor, by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session the Governor may fill such vacancy by appointment. If any such appointment of Chief Judge shall be made from among the Associate Judges, a temporary appointment of Associate Judge shall be made in like manner; but in such case, the person appointed Chief Judge shall not be deemed to vacate his office of Associate Judge any longer than until the expiration of his appointment as Chief Judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of Judges is sufficient to constitute a quorum. All appointments under this section shall continue until and

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at day of December next after the election at
filled.

art. VI, § 3, amended in 1869.

not to hold any other office.

the Court of Appeals and the Justices of the Supreme
by other office or public trust. All votes for any of
e judicial office, given by the legislature or the people

art. VI, § 10, amended in 1869.

l of judges.

Court of Appeals and Justices of the Supreme Court
current resolution of both houses of the Legislature
members elected to each house concur therein
except Justices of the Peace and judges or justices of
ed, may be removed by the Senate, on the recommendation
If two thirds of all the members elected to the Senate
officer shall be removed by virtue of this section
If he entered on the journals, nor unless he shall be
statement of the cause alleged, and shall have had a
rd. On the question of removal, the yeas and nays
urnal

art. VI, § 11, amended in 1869

election; age restriction; assignment by governor

hold the office of judge or justice of any court long
ng the last day of December next after he shall be
ch justice of the Supreme Court shall receive from
thousand dollars per year. Those assigned to the

peachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

Const. 1846, art. VI, § 1, amended in 1869.

§ 14. County courts.

The existing county courts are continued, and the judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings there shall be four county judges. The number of county judges in any county may also be increased, from time to time, by the legislature, to such number that the total number of county judges in any one county shall not exceed one for every two hundred thousand, or major fraction thereof, of the population of such county. The additional county judges in the county of Kings shall be chosen at the general election held in the first odd-numbered year after the adoption of this amendment. The additional county judges whose offices may be created by the legislature shall be chosen at the general election held in the first odd-numbered year after the creation of such office. All county judges, including successors to existing judges, shall be chosen by the electors of the counties for the term of six years from and including the first day of January following their election. County courts shall have the powers and jurisdiction they now possess, and also original jurisdiction in actions for the recovery of money only, where the defendants reside in the county, and in which the complainant demands judgment for a sum not exceeding two thousand dollars. The Legislature may hereafter enlarge or restrict the jurisdiction of the county courts, provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only, in which the sum demanded exceeds two thousand dollars, or in which any person not a resident of the county is a defendant.

Courts of sessions, except in the county of New York, are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All the jurisdiction of the court of sessions in each county, except the county of New York, shall thereupon be vested in the county court thereof, and all actions and proceedings then pending in such courts of sessions shall be transferred to said county courts for hearing and determination. Every county judge shall perform such duties as may be required by law. His salary shall be established by law, payable out of the county treasury. A county judge of any county may hold county courts in any other county when requested by the judge of such other county.

Const. 1846, art. VI, § 15, amended in 1869.

Amended in 1913.

§ 15. Surrogates' courts; surrogates, their powers and jurisdiction; vacancies.

The existing surrogates' courts are continued, and the surrogates now in office shall hold their offices until the expiration of their terms. Their successors shall be chosen by the electors of their respective counties, and their terms of office shall be six years, except in the county of New York, where they shall continue to be fourteen years. Surrogates and surrogates' courts shall have the jurisdiction and powers which the surrogates and existing surrogates' courts now possess, until otherwise provided by the Legislature. The county judge shall be surrogate of his county, except where a separate surrogate has been or shall be elected. In counties having a population exceeding forty thousand, wherein there is no separate surrogate, the Legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be six years. When the surrogate shall be elected as a separate officer his salary shall be established by law, payable out of the county treasury. No county judge or surrogate shall hold office longer than until and including the last day of December next after he shall be seventy years of age. Vacancies occurring in the office of county judge or surrogate shall be filled in the same manner as like vacancies occurring in the supreme court. The compensation of any county judge or surrogate shall not be increased or diminished during his term of office. For the relief of surrogates'



¶ 1. § 16, amended in 1869.

11 officers.

in special cases as are or may be provided by law.

VI, § 16, amended in 1869

the peace; district court justices.

The several towns shall, at their annual town meet-

a vacancy occurring before the expiration of a full

out of record, and the clerks may be remo

acted in the different cities of this State in such a

therwise provided for in this article, shall be the

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al courts.

acts of civil and criminal jurisdiction may be esta

to creation any equity jurisdiction or any greater. It

shall be submitted to be voted for or against. The Legislature may provide for the issue of bonds of the state to run for a period not exceeding fifty years in lieu of bonds heretofore authorized but not issued and shall impose and provide for the collection of a direct annual tax for the payment of the same as hereinbefore required. When any sinking fund created under this section shall equal in amount the debt for which it was created, no further direct tax shall be levied on account of said sinking fund and the Legislature shall reduce the tax to an amount equal to the accruing interest on such debt. The Legislature may from time to time alter the rate of interest to be paid upon any State debt, which has been or may be authorized pursuant to the provisions of this section, or upon any part of such debt, provided, however, that the rate of interest shall not be altered upon any part of such debt or upon any bond or other evidence thereof, which has been, or shall be created or issued before such alteration. In case the Legislature increase the rate of interest upon any such debt, or part thereof, it shall impose and provide for the collection of a direct annual tax to pay and sufficient to pay the increased or altered interest on such debt as it falls due and also to pay and discharge the principal of such debt within fifty years from the time of the contracting thereof, and shall appropriate annually to the sinking fund moneys in amount sufficient to pay such interest and pay and discharge the principal of such debt when it shall become due and payable.

Const. 1846, art. VII, § 12, amended in 1906 and 1909.

ARTICLE X.

§ 1. Sheriffs, clerks of counties, district attorneys and registers; governor may remove.

Sheriffs, clerks of counties, district attorneys and registers in counties having registers, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen, except in the counties of New York and Kings, and in counties whose boundaries are the same as those of a city, where such officers shall be chosen by the electors once in every two or four years as the Legislature shall direct. Sheriffs shall hold no other office and be ineligible for the next term after the termination of their offices. They may be required by law to renew their security from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense.

Const. 1846, art. X, § 1.

§ 2. Appointment or election of officers, not provided for by this constitution.

All county officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

Const. 1846, art. X, § 2.

§ 3. Duration of term.

When the duration of any office is not provided by this Constitution it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

Const. 1846, art. X, § 3.

§ 4. Time of election.

The time of electing all officers named in this article shall be prescribed by law.

Const. 1846, art. X, § 4.

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in offices, how filled.

shall provide for filling vacancies in office, and in person appointed to fill a vacancy shall hold his appointment longer than the commencement of the following the first annual election after the happening

Art. X, § 5.

year.

year and legislative term shall begin on the first Legislature shall, every year, assemble on the first

Art. X, § 6.

from office for misconduct, etc.

be made by law for the removal for misconduct or in officers, except judicial, whose powers and duties and who shall be elected at general elections, and as created by such removal.

Art. X, § 7.

med vacant.

may declare the cases in which any office shall be provision is made for that purpose in this Constitution

Art. X, § 8.

ARTICLE XII.

of city officers, when to be held; extension of terms.

of city officers, when to be held; extension of terms.

according to the best of my ability; " and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute any money, or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote," and no other oath, declaration or test shall be required as a qualification for any office of public trust.

Const. 1846, art. XII, § 1, amended in 1874.

§ 2. Official bribery and corruption.

Any person holding office under the laws of this State who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, anything of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

Const. 1846, art. XV, § 1, added in 1874.

§ 3. Offer or promise to bribe.

Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it was tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

Const. 1846, art. XV, § 2, added in 1874.

§ 4. Person bribed or offering a bribe may be a witness.

Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted, to testify in his own behalf in any civil or criminal prosecution therefor.

Const. 1846, art. XV, § 3, added in 1874.

§ 5. Free passes, franking privileges, etc., not to be received by public officer; penalty.

No public officer, or person elected or appointed to a public office, under the laws of this State, shall directly or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the Attorney-General. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination, shall also be deemed guilty of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation, giving any such free pass, free transportation, franking privilege or discrimination hereby

CONSTITUTIONAL PROVISIONS.

be privileged from testifying in relation thereto, ()
to civil or criminal prosecution therefor if he shall
be same.

of district attorney for failure to prosecute
of prosecutions for bribery.

orney who shall fail faithfully to prosecute a person
in his county of any provision of this article who
ledge, shall be removed from office by the Governor
opportunity of being heard in his defense. The
rred by any county, in investigating and prosecuti
or attempting to bribe any person holding office un
within such county, or of receiving bribes by any su
shall be a charge against the State, and their paym
provided for by law

rt. XV, § 4, added in 1874.

ARTICLE XIV.

nts to constitution, how proposed, voted upon

or Amendments to this Constitution may be propo
sembly; and if the same shall be agreed to by a m
ted to each of the two houses, such proposed amen
shall be entered on their journals, and the yeas and
referred to the Legislature to be chosen at the ne
ators, and shall be published for three months p
aking such choice, and if in the Legislature so next
proposed amendment or amendments shall be ag
all the members elected to each house then it shall
ature to submit such proposed amendment or amen
may be amended and at each session of the

tion, the yeas and nays being entered on the journal to be kept. The convention shall have the power to appoint such officers, employes and assistants as it may deem necessary, and fix their compensation and to provide for the printing of its documents, journal and proceedings. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. In case of a vacancy, by death, resignation or other cause, of any district delegate elected to the convention, such vacancy shall be filled by a vote of the remaining delegates representing the district in which such vacancy occurs. If such vacancy occurs in the office of a delegate-at-large, such vacancy shall be filled by a vote of the remaining delegates-at-large. Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the State at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendments, in the manner provided in the last preceding section, such constitution or constitutional amendment, shall go into effect on the first day of January next after such approval.

Const. 1846, art. XIII, § 2.

§ 2. Amendments of convention and legislature submitted coincidentally.

Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the Legislature, coincidentally submitted to the people for approval at the general election held in the year one thousand eight hundred and ninety-four, or at any subsequent election, shall, if approved, be deemed to supersede the amendment so proposed by the Legislature.

New.

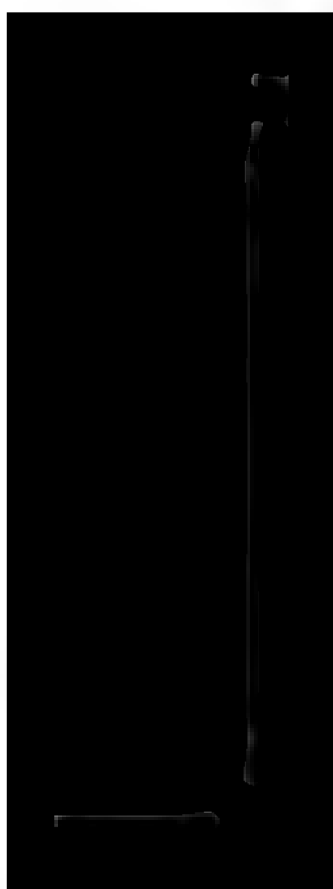


PART 3.

UNITED STATES STATUTES

PROVISIONS CONCERNING

ELECTIONS, ELECTIVE OFFICERS, CITIZENSHIP, ETC.



ELECTION OF SENATORS.*

When Senators to be elected.

The legislature of each State which is chosen next preceding the expiration of the time for which any Senator was elected to represent such State in Congress shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress.

U. S. R. S., § 14.

Mode of Election.

Such election shall be conducted in the following manner: Each house shall openly, by a viva-voce vote of each member present, name one person for Senator in Congress from such State, and the name of the person so voted for, who receives a majority of the whole number of votes cast in each house, shall be entered on the journal of that house by the clerk or secretary thereof; or if either house fails to give such majority to any person on that day, the fact shall be entered on the journal. At twelve o'clock meridian of the day following that on which proceedings are required to take place as aforesaid, the members of the two houses shall convene in joint assembly, and the journal of each house shall then be read, and if the same person has received a majority of all the votes in each house, he shall be declared duly elected Senator. But if the same person has not received a majority of the votes in each house, or if either house has failed to take proceedings as required by this section, the joint assembly shall then proceed to choose, by a viva-voce vote of each member present, a person for Senator, and the person who receives a majority of all the votes of the joint assembly, a majority of all the members elected to both houses being present and voting, shall be declared duly elected. If no person receives such majority on the first day, the joint assembly shall meet at twelve o'clock meridian of each succeeding day during the session of the legislature, and shall take at least one vote, until a Senator is elected.

U. S. R. S., § 15.

Vacancy occurring before meeting of legislature.

Whenever on the meeting of the Legislature of any State a vacancy exists in the representation of such State in the Senate, the Legislature shall proceed, on the second Tuesday after meeting and organization, to elect a person to fill such vacancy, in the manner prescribed in the preceding section for the election of a Senator for a full term.

U. S. R. S., § 16.

* See amendment to U. S. Constitution, ante, providing for direct election of U. S. senators.

UNITED STATES STATUTES.

ession of legislature.

ing the session of the Legislature of any State a vacancy
resentation of such State in the Senate, similar proceedings
y shall be had on the second Tuesday after the Legislature
l has notice of such vacancy.

ators certified.

duty of the executive of the State from which any Senator
to certify his election, under the seal of the State, to the
Senate of the United States.

8

certificates.

mentioned in the preceding section shall be countersigned
of State of the State.

19.

APPORTIONMENT AND ELECTION OF REPRESENTATIVES.

(Act approved August 8, 1911.)

Number of Representatives and Apportionment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after the third day of March, nineteen hundred and thirteen, the House of Representatives shall be composed of four hundred and thirty-three members, to be apportioned among the several states as follows: Alabama, ten; Arkansas, seven; California, eleven; Colorado, four; Connecticut, five; Delaware, one; Florida, four; Georgia, twelve; Idaho, two; Illinois, twenty-seven; Indiana, thirteen; Iowa, eleven; Kansas, eight; Kentucky, eleven; Louisiana, eight; Maine, four; Maryland, six; Massachusetts, sixteen; Michigan, thirteen; Minnesota, ten; Mississippi, eight; Missouri, sixteen; Montana, two; Nebraska, six; Nevada, one; New Hampshire, two; New Jersey, twelve; New York, forty-three; North Carolina, ten; North Dakota, three; Ohio, twenty-two; Oklahoma, eight; Oregon, three; Pennsylvania, thirty-six; Rhode Island, three; South Carolina, seven; South Dakota, three; Tennessee, ten; Texas, eighteen; Utah, two; Vermont, two; Virginia, ten; Washington, five; West Virginia, six; Wisconsin, eleven; Wyoming, one.

Act of Aug. 8, 1911, § 1.

Representatives from Arizona and New Mexico.

That if the Territories of Arizona and New Mexico shall become States in the Union before the apportionment of Representatives under the next decennial census they shall have one Representative each, and if one of such Territories shall so become a State, such State shall have one Representative, which Representative or Representatives shall be in addition to the number four hundred and thirty-three, as provided in section one of this Act, and all laws and parts of laws in conflict with this section are to that extent hereby repealed.

Id., § 2.

Districts.

That in each State entitled under this apportionment to more than one Representative, the Representatives to the Sixty-third and each subsequent Congress shall be elected by districts composed of a contiguous and compact territory, and containing as nearly as practicable an equal number of inhabitants. The said districts shall be equal to the number of Representatives to which such State may be entitled in Congress, no district electing more than one Representative.

Id., § 3.

Elections where increase of Representatives.

That in case of an increase in the number of Representatives in any State under this apportionment such additional Representative or Representatives shall be elected by the State at large and the other Representatives by the districts now prescribed by law until such State shall be redistricted in the manner provided by the laws thereof and in accordance with the rules enumerated in section three of this Act; and if there be no change in the

UNITED STATES STATUTES.

Representatives from a State, the Representatives thereof shall be elected from the districts now prescribed by law until such State shall otherwise provide herein prescribed.

Representatives at Large

Representatives for Representative or Representatives to be elected at large shall be nominated in the same manner as candidates for Representatives otherwise provided by the laws of such State.

Law, § 122, p. 74, ante.

Representation under amendment 14.

shall not deny or abridge the right of any of the male inhabitants twenty-one years of age, and citizens of the United States, who, when named in the amendment to the Constitution, article three, except for participation in the rebellion or other crime, the Representatives apportioned to such State shall be reduced to the number which the number of such male citizens shall have to the male citizens twenty-one years of age in such State.

22

on.

Next after the first Monday in November, in the year eighteen hundred and six, is established as the day, in each of the States of the United States, for the election of Representatives and Senators to the forty fifth Congress, and the Tuesday next after the first Monday, in every second year thereafter, is established as the day, in each of said States and Territories, of Representatives to the Congress commencing on the fourth day of

PRESIDENTIAL ELECTIONS.

Time of appointing electors.

Except in case of a presidential election prior to the ordinary period, as specified in sections one hundred and forty-seven to one hundred and forty-nine, inclusive, when the offices of President and Vice-President both become vacant, the electors of President and Vice-President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice-President.

U. S. R. S., § 131.

Number of electors.

The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice-President to be chosen come into office; except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives.

U. S. R. S., § 132.

Vacancies in electoral college.

Each State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.

U. S. R. S., § 133.

Failure to make a choice on the appointed day.

Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the Legislature of such State may direct.

U. S. R. S., § 134.

Meeting and vote of electors.

Be it enacted, etc., That the electors of each State shall meet and give their votes on the second Monday in January next following their appointment, at such place in each State as the Legislature of such State shall direct.

Act Feb. 3, 1887, ch. 90. 24 Stat. L. 373, § 1.

Determination of controversy as to appointment of electors.

That if any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to the

UNITED STATES STATUTES.

ing of the electors, shall be conclusive, and shall govern the electoral votes as provided in the Constitution, and stated, so far as the ascertainment of the electors appointed concerned.

appointment of electors, and of determination of

the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of electors in such State, to transmit under and in pursuance of the laws of such State, to the Secretary of State of the United States, a certificate of such electors appointed, setting forth the names of such electors, and other ascertainment under the laws of such State of the votes given or cast for each person for whose appointment any vote has been given or cast, and it shall also thereupon be the duty of each State to deliver to the electors of each State, on the day on which they are required by the preceding section to assemble, a certificate in triplicate, under the seal of the State, and all be inclosed and transmitted by the electors at the same time and in the same manner as is provided by law for transmitting by the Secretary of Government the lists of all persons voted for as electors, and all persons voted for as Vice President, and section one of act of March six of the Revised Statutes is hereby repealed, and if there has been any final determination in a State of a controversy as to the result of the election, it shall be the duty of the executive of such State, as soon as practicable after such determination, to transmit, under the seal of the State, to the Secretary of State of the United States, a certificate of such determination, in form and manner as the Secretary of State may prescribe, and the Secretary of State of the United States shall after the receipt at the State Department of each of such certificates, cause the same to be transmitted to the Secretary of each of such States, in such public newspaper as he shall designate, each day, and at the first meeting of Congress thereafter he shall

One. They shall, by writing under their hands, or under the hands of a majority of them, appoint a person to take charge of and deliver to the President of the Senate, at the seat of Government, before the first Wednesday in January then next ensuing, one of the certificates.

Two. They shall forthwith forward by the post-office to the President of the Senate, at the seat of Government, one other of the certificates.

Three. They shall forthwith cause the other of the certificates to be delivered to the judge of that district in which the electors shall assemble.

U. S. R. S., § 140.

Time for transmission of the certificates to the President of the Senate.

Be it enacted, &c., That the certificates and lists of votes for President and Vice-President of the United States, mentioned in chapter one of title three of the Revised Statutes of the United States, and in the act to which this is a supplement, shall be forwarded, in the manner therein provided, to the President of the Senate forthwith after the second Monday in January, on which the electors shall give their votes.

Act Oct 19, 1888, ch. 1216, 25 Stat. L. 613, § 1.

When Secretary of State shall send for District Judge's list.

Whenever a certificate of votes from any State has not been received at the seat of Government on the fourth Monday of the month of January in which their meeting shall have been held, the Secretary of State shall send a special messenger to the district judge in whose custody one certificate of the votes from that State has been lodged, and such judge shall forthwith transmit that list to the seat of the Government.

U. S. R. S., § 141.

Provision for absence of President of the Senate.

In case there shall be no President of the Senate at the seat of Government on the arrival of the persons intrusted with the certificates of the votes of the electors, then such persons shall deliver such certificates into the office of the Secretary of State, to be safely kept, and delivered over as soon as may be to the President of the Senate.

U. S. R. S., § 143.

Mileage of messengers.

Each of the persons appointed by the electors to deliver the certificates of votes to the President of the Senate shall be allowed, on the delivery of the lists intrusted to him, twenty five cents for every mile of the estimated distance, by the most usual road, from the place of meeting of the electors to the seat of Government of the United States.

U. S. R. S., § 144.

Forfeiture for messenger's neglect of duty.

Every person who, having been appointed, pursuant to subdivision one of section one hundred and forty or to section one hundred and forty-one, to deliver the certificates of the votes of the electors to the President of the Senate, and having accepted such appointment, shall neglect to perform the services required from him, shall forfeit the sum of one thousand dollars.

U. S. R. S., § 145.

Vacancy in office of both President and Vice-President.

Be it enacted, &c., That in case of removal, death, resignation, or inability of both the President and Vice-President of the United States, the Secretary of State, or if there be none, or in case of his removal, death, resignation or inability, then the Secretary of the Treasury, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of War, or if there be none, or in case of his removal, death, resignation, or inability,

UNITED STATES STATUTES.

y General, or if there be none, or in case of his removal, death, inability, then the Postmaster-General, or if there be none, removal, death, resignation, or inability, then the Secretary or there be none, or in case of his removal, death, resignation, or an Secretary of the Interior, shall act as President until the President or Vice-President is removed or a President shall be elected. That whenever the powers and duties of the office of President of the United States shall devolve upon any of the persons named in this act, he shall be not then in session, or if it would not meet in accordance with the provisions of this act, within twenty days thereafter, it shall be the duty of the President to call the Congress in extraordinary session, giving twenty days' notice of the meeting.

1986, ch. 4, 24 Stat. L. 1, § 1.

officers to act as President.

ding section shall only be held to describe and apply to such have been appointed by the advice and consent of the Senate herein named, and such as are eligible to the office of President of the United States at the time the powers and duties of the be upon them respectively.

or refusal of office.

ance of a refusal to accept, or of a resignation of the office of Vice President, shall be an instrument in writing, declaring as described by the person refusing to accept or resigning, as the case may be, and shall be delivered into the office of the Secretary of State.

STATE OFFICERS.

Oath by members of State legislatures and State officers.

Every member of a State legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: "I, A B, do solemnly swear that I will support the Constitution of the United States."

U. S. R. S., § 1836.

By whom administered.

Such oath may be administered by any person who, by the law of the state, is authorized to administer the oath of office; and the person so administering such oath shall cause a record or certificate thereof to be made in the same manner as, by the law of the State, he is directed to record or certify the oath of office.

U. S. R. S., § 1837.

CIVIL RIGHTS.

or more persons in any State or Territory conspire, or go in highway or on the premises of another, for the purpose of directly or indirectly, any person or class of persons of the laws, or of equal privileges and immunities under the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen entitled to vote, from giving his support or advocacy in a lawful election in favor of the election of any lawfully qualified person for President or Vice President, or as a member of Congress, or to injure any citizen in person or property on account of his support or advocacy, in any case of conspiracy set forth in this Act, or if one or more persons engaged therein do, or cause to be done, any of the things herein prohibited, whereby another is deprived of the object of such conspiracy, whereby another is

CITIZENSHIP.

Who are citizens.

All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

U. S. R. S., § 1992.

Citizenship of children of citizens born abroad.

All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

U. S. R. S., § 1993.

Citizenship of married women.

Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.

U. S. R. S., § 1994.

Of persons born in Oregon.

All persons born in the district of country formerly known as the Territory of Oregon, and subject to the jurisdiction of the United States on the 18th May, 1872, are citizens in the same manner as if born elsewhere in the United States.

U. S. R. S., § 1995.

Rights of citizens forfeited for desertion, etc.

All persons who deserted the military or naval services of the United States and did not return thereto or report themselves to a provost-marshal within sixty days after the issuance of the proclamation by the President, dated the 11th day of March, 1865, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust and profit under the United States, or of exercising any rights of citizens thereof.

U. S. R. S., § 1996.

Certain soldiers and sailors not to incur the forfeitures of the last section.

No soldier or sailor, however, who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date, shall be held to be a deserter from the Army or Navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred, under the preceding section, by the loss of citizenship and of the right to hold office, in consequence of his desertion.

U. S. R. S., § 1997.

draft.

1996.

1005

an citizen deemed to have expatriated himself
an citizen shall be deemed to have expatriated
naturalized in any foreign state in conformity
has taken an oath of allegiance to any foreign state
naturalized citizen shall have resided for two years in
he came, or for five years in any other foreign state
he has ceased to be an American citizen, and that
he shall be deemed his place of residence during
that such determination may be necessary.

resumption of American citizenship by the parent: Provided, That such naturalization or resumption takes place during the minority of such child: And provided further, That the citizenship of such minor child shall begin at the time such minor child begins to reside permanently in the United States.

Id., § 5.

Citizenship of children of citizens born abroad.

That all children born outside the limits of the United States who are citizens thereof in accordance with the provisions of section nineteen hundred and ninety-three of the Revised Statutes of the United States shall and who continue to reside outside of the United States shall, in order to receive the protection of this Government, be required upon reaching the age of eighteen years to record at an American consulate their intention to become residents and remain citizens of the United States and shall be further required to take the oath of allegiance to the United States upon attaining their majority.

Id., § 6.

Filing of duplicates of evidence, etc.

That duplicates of any evidence, registration, or other acts required by this act shall be filed with the Department of State for record.

Id., § 7.

UNITED STATES STATUTES

State of each and every court exercising jurisdiction in said criminal matter, and account for the following facts and proceedings:

I, _____, being a declaration of intention and having a full and lawful mind,

and darkening the petition of an alien for admission as a citizen and for the Board hearing the case in 1949 and 1950 and the issuance of the certificate of citizenship thereafter, if any.

and docketing the petition of an alien for admission as a citizen and for the final hearing thereon in District and for the issuance of the certificate of citizenship thereon, if any.

1 court collecting such fees is hereby authorized to retain the said
2 d by him in such formalization providing the remaining one-half
3 d fees in each case to be paid by such clerk to the said
4 said quarter is a quarter with the said clerk to the
5 migration and Naturalization and paid over to the said clerk
6 the sum of each quarter in each and every final year and the
7 shall be paid over to the disbursing clerk of the said
8 clerk, who shall thereupon deposit them in the Treasury of the
9 said clerk transfer quarterly to the Auditor of the said
10 the said disbursing clerk shall be paid quarterly and the said
11 clerk

[illegible]

provisions of this Act shall, within five years after the issuance of such certificate, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such alien to become a permanent citizen of the United States at the time of filing his application for citizenship, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the cancellation of his certificate of citizenship as fraudulent, and the diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those within their respective jurisdictions who have such certificates of citizenship and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to cancel certificates of citizenship.

Whenever any certificate of citizenship shall be set aside or canceled, as herein provided, the court in which such judgment or decree is rendered shall make an order canceling such certificate of citizenship and shall send a certified copy of such order to the Bureau of Immigration and Naturalization; and in case such certificate was not originally issued by the court making such order it shall direct the clerk of the court to transmit a copy of such order and judgment to the court out of which such certificate of citizenship shall have been originally issued. And it shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of citizenship upon the records and to notify the Bureau of Immigration and Naturalization of such cancellation.

The provisions of this section shall apply not only to certificates of citizenship issued under the provisions of this Act, but to all certificates of citizenship which may have been issued heretofore by any court exercising jurisdiction in naturalization proceedings under prior laws.

§ 16. [Repealed by act of March 4, 1909. See act to codify, revise and amend the penal laws of the United States, *post.*]

§ 17. [Repealed by act of March 4, 1909. See act to codify, revise and amend the penal laws of the United States, *post.*]

§ 18. That it is hereby made a felony for any clerk or other person to issue or be a party to the issuance of a certificate of citizenship contrary to the provisions of this Act, except upon a final order under the hand of a court having jurisdiction to make such order, and upon conviction thereof such clerk or other person shall be punished by imprisonment for not more

provisions of this Act shall, within five years after the issuance of such certificate, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such alien to become a permanent citizen of the United States at the time of filing his application for citizenship, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the cancellation of his certificate of citizenship as fraudulent, and the diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those within their respective jurisdictions who have such certificates of citizenship and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to cancel certificates of citizenship.

Whenever any certificate of citizenship shall be set aside or canceled, as herein provided, the court in which such judgment or decree is rendered shall make an order canceling such certificate of citizenship and shall send a certified copy of such order to the Bureau of Immigration and Naturalization; and in case such certificate was not originally issued by the court making such order it shall direct the clerk of the court to transmit a copy of such order and judgment to the court out of which such certificate of citizenship shall have been originally issued. And it shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of citizenship upon the records and to notify the Bureau of Immigration and Naturalization of such cancellation.

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§ 17. [Repealed by act of March 4, 1909. See act to codify, revise and amend the penal laws of the United States, *post*.]

§ 18. That it is hereby made a felony for any clerk or other person to issue or be a party to the issuance of a certificate of citizenship in violation of the provisions of this Act, except upon a final order of a court having jurisdiction to make such order, and any clerk or other person shall be punished by imprisonment for not more than five years.

UNITED STATES STATUTES.

and by a fine of not more than five thousand dollars, in the court.

ed by act of March 4, 1900. See act to codify, revise and laws of the United States, post.]

clerk or other officer of a court having power under this act to examine and take the oath of such alien, who willfully neglects to render true accounts of his property and affairs, or who willfully conceals or transfers any of his property, or who willfully fails to pay any balance of such moneys due to the United States, or who, after said payment shall become due and demand therefor, refuses to pay the same, shall be deemed guilty of embezzlement of the public moneys, and shall be punishable by imprisonment for not more than five years, or by a fine of not more than five thousand dollars, or both.

shall be unlawful for any clerk of any court or his assistant exercising jurisdiction in naturalization proceedings, to charge, collect, or receive any other or additional fees or moneys in proceedings save the fees and moneys herein specified, and any violation of the provisions of this section or any part thereof shall be a misdemeanor and shall be punished by imprisonment for two years, or by a fine of not more than one thousand dollars, or by such fine and imprisonment.

clerk of any court exercising jurisdiction in naturalization of a person acting under authority of this Act, who shall know-
a petitioner, affiant, or witness named in an affidavit, peti-
tion of citizenship, or other paper or writing required to be
the provisions of this Act, personally appeared before him
-swore, or acknowledged the execution thereof or signed the
not such petitioner, affiant, or witness did not personally
-or was not sworn thereto or did not execute the same, or
the execution thereof, shall be punished by a fine not
exceed dollars, or by imprisonment not to exceed five years.

person who knowingly procures naturalization in violation of this Act shall be fined not more than five thousand dollars, and not more than five years or both and upon conviction

FEDERAL NATURALIZATION LAW.

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DECLARATION OF INTENTION.

(Invalid for all purposes seven years after the date hereof.)

....., AS:
I,, aged years, occupation, do declare on oath (affirm) that my personal description is: Color, complexion, height, weight, color of hair, color of eyes, other visible distinctive marks; I was born in on the day of, anno Domini; I now reside at; I emigrated to the United States of America from on the vessel; my last foreign residence was It is my bona fide intention to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to, of which I am now a citizen (subject); I arrived at the (port) of, in the State (Territory or District) of, on or about the day of, anno Domini; I am not an anarchist; I am not a polygamist nor a believer in the practice of polygamy; and it is my intention in good faith to become a citizen of the United States of America and to permanently reside therein. So help me God.

(Original signature of declarant)

Subscribed and sworn to (affirmed) before me this day of, anno Domini

[L. S.]

(Official character of attester.)
.....

PETITION FOR NATURALIZATION.

..... Court of

In the matter of the petition of to be admitted as a citizen of the United States of America.

To the Court:

The petition of respectfully shows:

First. My full name is

Second. My place of residence is number street, city of, State (Territory or District) of

Third. My occupation is

Fourth. I was born on the day of at

Fifth. I emigrated to the United States from, on or about the day of, anno Domini, and arrived at the port of, in the United States, on the vessel

Sixth. I declared my intention to become a citizen of the United States on the day of at, in the court of

Seventh. I am ..married. My wife's name is She was born in and now resides at I have children, and the name, date, and place of birth and place of residence of each of said children is as follows:;;;

Eighth. I am not a disbeliever in or opposed to organized government or a member of or affiliated with any organization or body of persons teaching disbelief in organized government. I am not a polygamist nor a believer in the practice of polygamy. I am attached to the principles of the Constitution of the United States, and it is my intention to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty and particularly to, of which at this time I am a citizen (or subject), and it is my intention to reside permanently in the United States.

Ninth. I am able to speak the English language.

Tenth. I have resided continuously in the United States of America for a term of five years at least immediately preceding the date of this petition, to wit, since, anno Domini and in the State (Territory or District) of for one year at least next preceding the date of this petition, to wit, since day of, anno Domini

UNITED STATES STATUTES.

not heretofore made petition for citizenship to any court of the United States for citizenship to the court of at ..
was denied by the said court for the following reasons: ..
(removed.)

and made a part of this petition are my declaration that I am a citizen of the United States and the certificate from the Department of Commerce and Labor required by law. Wherefore you may be admitted a citizen of the United States.

(Signature of petitioner)

.. ss:

being duly sworn, deposes and says that he has read the foregoing petition and the contents thereof, that the same is true of his own knowledge as to matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.
sworn to before me this day of

Clerk of the

AFFIDAVIT OF WITNESSES.

Court of

the petition of to be admitted a citizen of the United States of America.

.. ss:

occupation residing at and
residing at each being sworn to before me this day of

....., ss:

Be it remembered, that at a term of the court of, held at on the day of, in the year of our Lord nineteen hundred and, who previous to his (her) naturalization was a citizen or subject of, at present residing at number street, city (town), State (Territory or District), having applied to be admitted a citizen of the United States of America pursuant to law, and the court having found that the petitioner had resided continuously within the United States for at least five years and in this State for one year immediately preceding the date of the hearing of his (her) petition, and that said petitioner intends to reside permanently in the United States, had in all respects complied with the law in relation thereto, and that ..he was entitled to be so admitted, it was thereupon ordered by the said court that ..he be admitted as a citizen of the United States of America.

In testimony whereof the seal of said court is hereunto affixed on the day of, in the year of our Lord nineteen hundred and, and of our independence the

[L. S.]

.....
(Official character of attestor.)

STUB OF CERTIFICATE OF NATURALIZATION.

No. of certificate,

Name,; age,

Declaration of intention, volume, page

Petition, volume, page

Name, age, and place of residence of wife, Names,
ages, and places of residence of minor children,

Date of order, volume, page

(Signature of holder)

§ 28. That the Secretary of Commerce and Labor shall have power to make such rules and regulations as may be necessary for properly carrying into execution the various provisions of this Act. Certified copies of all papers, documents, certificates, and records required to be used, filed, recorded, or kept under any and all of the provisions of this Act shall be admitted in evidence equally with the originals in any and all proceedings under this Act and in all cases in which the originals thereof might be admissible as evidence.

§ 29. That for the purpose of carrying into effect the provisions of this Act there is hereby appropriated the sum of one hundred thousand dollars, out of any moneys in the Treasury of the United States not otherwise appropriated, which appropriation shall be in full for the objects hereby expressed until June thirtieth, nineteen hundred and seven; and the provisions of section thirty-six hundred and seventy-nine of the Revised Statutes of the United States shall not be applicable in any way to this appropriation.

§ 30. That all the applicable provisions of the naturalization laws of the United States shall apply to and be held to authorize the admission to citizenship of all persons not citizens who owe permanent allegiance to the United States, and who may become residents of any State or organized Territory of the United States, with the following modifications: The applicant shall not be required to renounce allegiance to any foreign sovereignty; he shall make his declaration of intention to become a citizen of the United States at least two years prior to his admission; and residence within the jurisdiction of the United States, owing such permanent allegiance, shall be regarded as residence within the United States within the meaning of the five years' residence clause of the existing law.

§ 31. That this Act shall take effect and be in force from and after ninety days from the date of its passage: Provided, that sections one, two, twenty-eight, and twenty-nine shall go into effect from and after the passage of this Act.

An act providing for the naturalization of the wife and minor children of insane aliens making homestead entries under the land laws of the United States. App'd Feb 24, 1911.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when any alien, who has declared his intention to become a citizen of the United States, becomes insane before he is actually naturalized, and his wife shall thereafter make a homestead entry under the land laws of the United States, she and their minor children may, by complying with the other provisions of the naturalization laws, be naturalized without making any declaration of intention.

UNITED STATES STATUTES.

ED UNITED STATES REVISED STATUTES.*

Admission of citizenship by other means than naturalization, see sec. 1008 of the United States Revised Statutes. See, also, sec. 2172 of the Revised

ably discharged soldiers exempt from certain formalities.

Age of twenty-one years and upward, who has enlisted, or served in the armies of the United States, either the regular or the volunteer, or may be hereafter, honorably discharged shall be admitted to citizenship of the United States, upon his petition, without proof of his intention to become such, and he shall not be required to reside more than one year's residence within the United States before his admission to become such citizen; and the court admitting him, in addition to such proof of residence and good moral character required by law, be satisfied by competent proof of such person's honorable discharge from the service of the United States.

(Added, 1875.) Aliens of African nativity and descent.

This title shall apply to aliens being free white persons, of European nativity and to persons of African descent.

Residence within the United States required for five years con-

tinuous, before an alien admitted to become a citizen who has not for the continuous period next preceding his admission resided within the United

States, shall be prohibited.

Prohibition to alien enemies prohibited. No native citizen or subject, or a denizen of any country, with which the United States are at war, at the time of his admission, shall be then admitted to become a citizen of the United States, or the Territories, until the first day of June, in the year one thousand eight hundred and eighty, or that day made a declaration according to

the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant-vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen.

TWENTY-SECOND STATUTES AT LARGE, PAGE 61.

§ 14. Naturalization of Chinese prohibited.

That hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed.

TWENTY-EIGHTH STATUTES AT LARGE, PAGE 124.

Aliens honorably discharged from service in navy or marine corps.

Any alien of the age of twenty-one years and upward who has enlisted or may enlist in the United States navy or marine corps, and has served or may hereafter serve five consecutive years in the United States navy or one enlistment in the United States marine corps, and has been or may hereafter be honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and the court admitting such alien shall, in addition to proof of good moral character, be satisfied by competent proof of such person's service in and honorable discharge from the United States navy or marine corps.

ACTS TO VALIDATE CERTAIN CERTIFICATES OF NATURALIZATION.

[Act. of June 29, 1906.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

That naturalization certificates issued after the act approved March third, nineteen hundred and three, entitled "An act to regulate the immigration of aliens into the United States," went into effect, which fail to show that the courts issuing said certificates complied with the requirements of section thirty-nine of said act, but which were otherwise lawfully issued, are hereby declared to be as valid as though said certificates complied with said section: Provided, That in all such cases applications shall be made for new naturalization certificates, and when the same are granted, upon compliance with the provisions of said act of nineteen hundred and three, they shall relate back to the defective certificates, and citizenship shall be deemed to have been perfected at the date of the defective certificate.

§. 2. That all the records relating to naturalization, all declarations of intention to become citizens of the United States, and all certificates of naturalization filed, recorded, or issued prior to the time when this act takes effect in or from the criminal court of Cook county, Illinois, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this act further validated or legalized.

(Stat. 1905-6, Part I, p. 630.)

ACT OF AUGUST 24, 1912.

Sec. 9. All of the records relating to naturalization or declarations of intention to become citizens of the United States and all certificates of naturalization filed, recorded, or issued prior to an Act to validate certain certificates of naturalization approved June twenty-ninth, nineteen hundred and six, in or from the Louisville city court, sometimes called the Louisville police court, Kentucky, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this Act further validated or legalized.

UNITED STATES STATUTES

Y, REVISE AND AMEND THE PENAL LAWS OF
THE UNITED STATES.

FIFTH STATUTES AT LARGE, PAGE 1086.

[Act of March, 4, 1909.]

Sections repeal sections 10, 17, and 19 of the act of June

ever shall falsely make, forge, or counterfeit, or cause or
ly made, forged, or counterfeited, or shall knowingly aid
making, forging, or counterfeiting any certificate of citi-
t to use the same, or with the intent that the same may
er person, shall be fined not more than ten thousand dol-
not more than ten years, or both,

er shall engrave, or cause or procure to be engraved, or
any plate in the likeness of any plate designed for the
cate of citizenship, or whoever shall sell any such plate,
the United States from any foreign place any such plate,
irection of the Secretary of Commerce and Labor or other
whoever shall have in his control, custody, or possession
engraved after the similitude of any plate from which any
been printed, with intent to use or to suffer such plate to
or counterfeiting any such certificate or any part thereof,
print, photograph, or in any manner cause to be printed,
e, or executed, any print or impression in the likeness of
te, or any part thereof, or whoever shall send any such cer-
ring the same into the United States from any foreign
ction of some proper officer of the United States; or who-
his possession a distinctive paper which has been adopted
er of the United States for the printing of such certificate,
tally to use the same, shall be fined not more than ten
or imprisoned not more than ten years, or both.

er when appearing to be a naturalized citizen, or when ap-

been fraudulently altered or antedated; or whoever, without lawful excuse, shall have in his possession any blank certificate of citizenship provided by the Bureau of Immigration and Naturalization with the intent unlawfully to use the same; or whoever, after having been admitted to be a citizen, shall, on oath or by affidavit, knowingly deny that he has been so admitted, with the intent to evade or avoid any duty or liability imposed or required by law, shall be fined not more than one thousand dollars, or imprisoned not more than five years, or both.

SEC. 78. Whoever shall in any manner use, for the purpose of registering as a voter, or as evidence of a right to vote, or otherwise unlawfully, any order, certificate of citizenship, or certificate, judgment, or exemplification, showing any person to be admitted to be a citizen, whether heretofore or hereafter issued or made, knowing that such order, certificate, judgment, or exemplification has been unlawfully issued or made; or whoever shall unlawfully use, or attempt to use, any such order or certificate, issued to or in the name of any other person, or in a fictitious name, or the name of a deceased person, shall be fined not more than one thousand dollars, or imprisoned not more than five years, or both.

SEC. 79. Whoever shall knowingly use any certificate of naturalization heretofore or which hereafter may be granted by any court, which has been or may be procured through fraud or by false evidence, or which has been or may hereafter be issued by the clerk or any other officer of the court without any appearance and hearing of the applicant in court and without lawful authority; or whoever, for any fraudulent purpose whatever, shall falsely represent himself to be a citizen of the United States without having been duly admitted to citizenship, shall be fined not more than one thousand dollars, or imprisoned not more than two years, or both.

SEC. 80. Whoever, in any proceeding under or by virtue of any law relating to the naturalization of aliens, shall knowingly swear falsely in any case where an oath is made or affidavit taken, shall be fined not more than one thousand dollars and imprisoned not more than five years.

SEC. 81. The provisions of the five sections last preceding shall apply to all proceedings had or taken, or attempted to be had or taken, before any court in which any proceeding for naturalization may be commenced or attempted to be commenced, and whether such court was vested by law with jurisdiction in naturalization proceedings or not.

NOTE.—By the terms of section 341 of the act referred to above the foregoing sections specifically repealed sections 5395, 5424, 5425, 5426, 5428, and 5429 of the Revised Statutes of the United States, as well as sections 16, 17, and 19 of the act of June 29, 1906 (34 Stat. L., pt. 1, ch. 3592, p. 596).

UNITED STATES STATUTES.

NATURALIZATION REGULATIONS.

Regulations supersede those of August 20, 1905.)

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
WASHINGTON, December 19, 1914.

On September 20, 1906, naturalization jurisdiction of State courts is given. The law has "a seal, a clerk, and jurisdiction in actions at law and equity, in which the amount in controversy is unlimited."

Who prior to September 27, 1906, has declared his intention in accordance with the law in force at the date of his declaration, shall not be required to make such declaration.

Those who have fully declared their intention on and after June 29, 1906, and before September 27, 1906, must comply with all of the requirements of the law in force at the date of June 29, 1906, in petitioning for naturalization, with the exception that those arriving prior to June 29, 1906, are not required to file certificates of arrival.

Those who have declared their intention prior to June 29, 1906, in accordance with the law in force at the date of June 29, 1906, must comply with all of the requirements of the law in force at the date of June 29, 1906, in petitioning for naturalization, except that they are not required to file certificates of arrival, sign their petitions in their own handwriting, or to speak the English language.

Those who declare his intention after June 29, 1906, and file his petition must sign said petition in his own handwriting, and must file the same with the clerk of the court in which the petition is filed.

its serial number in the upper right-hand corner, which the clerk of the court will insert in the petition for naturalization at the place indicated.

6. Declarations of intention will be furnished in bound volumes (Form 2202, 50 leaves; 2202A, 150 leaves; or 2202B, 250 leaves) as a court record, varied in number of pages according to the requirements of the court. In addition to the bound records, the duplicate and triplicate declarations of intention (Form 2203) will be furnished as loose sheets attached together and perforated so that they can be readily torn apart, the triplicate to be given to the declarant and the duplicate to be forwarded to the Bureau of Naturalization. Each bound record will contain an index in addition to the original declarations of intention, and will be paged in consecutive order. At the time the original declarations of intention in the bound volumes are filled out and signed the names of the declarants must be entered in the index. The declarations shall be numbered consecutively, beginning with No. 1 in volume 1 and continuing the sequence from volume to volume.

7. The originals of the petitions for naturalization will also be furnished in bound volumes (Form 2204, 100 leaves, or 2204B, 250 leaves) paged in consecutive order and provided with an index. The duplicate petitions (Form 2205) will be furnished as loose sheets, and when executed must be forwarded to the Bureau of Naturalization by registered mail, as provided in rule 22 of these regulations. The original petitions for naturalization in the bound volumes must be filled out and signed, the names of the petitioners entered in the index, and retained as part of the permanent records of the office in which filed. Petitions shall be numbered consecutively, beginning with No. 1 in volume 1 and continuing in order in the following volumes. The first petition in volume 2 must not be numbered "1," but shall receive the number following that given the last petition in volume 1.

8. Certificates of naturalization (Form 2207) will be supplied in bound volumes consisting of original and duplicate certificates and stubs. Each original and duplicate certificate and the stub will be given the same serial number, the stub to the original certificate bearing a page number in addition to its serial number. The original certificate will be given to the petitioner in accordance with the final order of the court, and the duplicate shall be forwarded to the Bureau of Naturalization by registered mail, as provided in rule 22 of these regulations, the stub to the original constituting a part of the permanent records of the court. The bound volumes containing the declarations, petitions, and certificates constitute the "records" and dockets required by sections 6 and 14 of the naturalization act. The department requires no other dockets to be kept.

9. No certificate of naturalization shall be issued to a petitioner until after the judge of the court granting naturalization has signed the order to that effect.

10. Clerks of courts will be furnished with requisition blanks (Form 2201) on which are listed, by number and title, all blank forms, including record and order books, to be used in the naturalization of aliens, and these forms must be obtained exclusively from the Bureau of Naturalization. Department of Labor, none other being official. Manila envelopes or jackets (Form 2211) will be furnished to clerks in which to place the triplicate declaration of intention or the original certificate of naturalization before delivering it to the person making the declaration or to the person naturalized.

11. The first supply of blank forms will be furnished upon the written application of the clerks of courts having jurisdiction to naturalize aliens, accompanied, in the case of clerks of State courts, by authoritative evidence (preferably the certificate of the attorney general of the State) that the courts of which such clerks are officers have "a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited." Subsequent supplies of such blank forms will be furnished the

UNITED STATES STATUTES.

having jurisdiction to naturalize aliens upon the naturalization of requisitions made on Form F201.

Courts when first making application to the Bureau of Immigration shall supply of the blank forms required in the naturalization process, whether any declarations of intention have been made by those courts since September 20, 1906. The number of certificates of naturalization issued in 1903, if such certificates fail to comply with the naturalization act of March 3, 1903.

Where a court holds sessions at different places, whether at one or at several places, or the one clerk is required to transact business at all places, or separate clerks shall be appointed at each place, the requisitions of section 14 of the naturalization act shall be filed with the court, and the declarations of intention and of petition shall be in chronological order.

Where in which the name of a naturalized alien is changed, the clerk of the court is required to file a declaration of intention and the new name of the said person to the court, when transmitting to it the duplicate of the certificate of naturalization of the alien whose name is changed.

At the working day of each month the clerk shall file a report on Form F206 of the date of petition filed by section 8, and of the day, month and year, and of the result of each and every petition for naturalization filed in the preceding month. These reports on Form F206 shall be filed in the month to which the report relates, and cases not reported on Form F206 must be amended to and remain posted until final action is had.

At the working day of each month following the sitting of the court, the clerk of such court shall forward to the

old certificates, and shall immediately thereafter forward to the Bureau of Naturalization the duplicate of any such paper so issued.

One certified copy of declaration of intention (Form 2215) or certificate of naturalization (Form 2216) may be furnished by the clerk of the issuing court under his hand and the seal of the court for the use only of the person concerned to establish his citizenship status in connection with any entry under the public-land laws of the United States. When issued these forms must be made in duplicate, one to be given to the person applying therefor and the duplicate forwarded with other naturalization papers on the first working day of the succeeding month to the Bureau of Naturalization. Unless the applicant presents to the clerk his original declaration or certificate for comparison, these forms can under no conditions be issued. In case the alien makes a second land entry he may support his second entry by describing the first land claim with which his declaration or certificate is filed.

The fees to be collected for the issuance of each of the copies of declarations of intention and of certificates of naturalization described in this regulation, and the disposal to be made of such fees when collected, will be determined in accordance with the law and the rules in force in the respective courts. No part of these fees is required to be forwarded to this department. Clerks are, however, required to make quarterly reports, on Form 2217, on the first working day of January, April, July, and October, of the number of such papers issued during the preceding quarter.

18. Original declarations of intention, or certificates of naturalization, issued subsequent to September 26, 1906, and surrendered to the General Land Office in support of entries upon public land, may be returned upon proper application. In cases of declarations of intention the clerk will forward the application to the Bureau of Naturalization, accompanied by a certified copy on Form 2215. In cases of certificates, the application will be accompanied by a personal description of the applicant. In both instances a description of the land should be included, giving the section, township, and range, together with the date and place of making the entry. The originals will then be procured from the General Land office and returned to the clerk of the court.

19. For recording the affidavits of substituted witnesses under section 5 of the act of June 29, 1906, blank forms (Form 2218) have been prepared as pasters to be affixed to the backs of petitions in the bound volume, following the "Order of court admitting petitioner." Copies of this form may be procured by the usual requisition (Form 2201). Do not send copies of this form to the Bureau of Naturalization.

20. Aliens making declarations of intention, or filing petitions for naturalization, must sign their names in full and without abbreviation in the appropriate places on the various blank forms, and the entries of their names by the clerk must correspond in every particular. Where a name contains an initial which is used only to distinguish one individual from another with the same surname, that fact should be noted on the paper.

21. Clerks of courts shall not receive declarations of intention (Form 2202) or file petitions for naturalization (Form 2204) from other aliens than white persons and persons of African nativity or of African descent. Any alien, other than a Chinese person, who claims that he is a white person in the sense in which that term is used in section 2169 Revised Statutes, should be allowed, if he insists upon it after an explanation is made showing him the risk of denial, to file his declaration or his petition, as the case may be, leaving the issue to be determined by the court.

Declarations should not be received from, nor petitions for naturalization filed by, persons not residing in the judicial district within which the court is held.

22. On the first working day of each and every month, and not otherwise, clerks of courts shall forward to the Bureau of Naturalization duplicates of all declarations of intention, petitions for naturalization, and certificates of

UNITED STATES STATUTES.

For issued during the preceding month. Duplicate petitions and duplicate certificates of naturalization shall be forwarded mail, and duplicate declarations of intent on so well as be inclosed therewith provided the combined weight of the do exceed 4 pounds, otherwise they shall be forwarded separated mail. The same course should be followed in forwarding naturalization papers which have been returned for correction making a shipment of naturalization papers other than or correction is required to forward therewith a report on the number of such papers filed or issued during the month. If petitions for naturalization have been filed the report on the approximate dates of final hearings shall also be a shipment. When no naturalization business has been any month it is unnecessary to submit monthly reports to port should be made as prescribed in rule 23.

vided for in section 14 of the act of June 20, 1906, shall be the "Abstract of collections" (Form 2212) within thirty day of each quarter of a fiscal year. Three quarters end December 31, March 31, and June 30, respectively. One half collected up to \$50,000 and all in excess thereof shall be submitted to the Commissioner, Bureau of Naturalization, by account such certificates to be made payable to the order of the latter, preferably by draft. The Comptroller of the fact that section 14 requires the collection of the final fee certificate of naturalization be issued or denied in naturalization business is transacted during any quarter, be forwarded as aforesaid with the words "No transactions."

A petition for naturalization is filed under section 2104 exempting honorably discharged soldiers from the necessity of intention and proving more than one year of residence in addition to good moral character, insert in lieu of usual declaration of intention: "Petitioner is an honorably

through when the alien arrived on or prior to June 29, 1906. When the arrival was after that date, only the words "my declaration of intention to become a citizen of the United States and" should be struck through. The statement following the signature of the petitioner to the body of the petition should be struck through entirely in cases of aliens arriving on or before June 29, 1906; but for those arriving after that date only the words "declaration of intention" should be struck through, and in both cases the entry in lieu thereof should be made "Honorable discharge certificate of petitioner was exhibited to me this _____ day of _____." An appropriate note should also be entered upon the stub of the certificate issued to said applicant.

(e) Certain aliens are permitted to petition for naturalization under the terms of the act of June 25, 1910, without proof of previous declarations of intention. Clerks of courts should state in lieu of the information regarding the declaration of intention "Filed under provisions of section 3 of the act of Congress approved June 25, 1910," and the statement following the first signature of the petitioner should be changed so as to read "Declaration of intention omitted under the terms of the act of June 25, 1910." Affidavit setting forth particulars as to the reason for the exemption claimed must be signed and sworn to by the petitioner before the clerk of the court or his authorized deputy. In the event this form is not presented by an officer in the Naturalization Service it will be forwarded to the clerk of the court for use in any case to which it relates, upon examination of the duplicate petition in the bureau.

(f) Petitions for naturalization under the sixth subdivision of section 4 may be legally filed by children of a deceased declarant only after such children who were minors at the time of the death of the father have attained their majority. Where a petition is filed by a child under the foregoing conditions, the fifth assertion should be altered to read: "My father declared his intention to become a citizen of the United States on the _____ day of _____, A. D. _____, and died on the _____ day of _____, A. D. _____."

(g) Where a petition for naturalization is filed under this subdivision by the widow of a deceased declarant, the fifth assertion should be altered to correspond to the foregoing in relation to the child, with the exception that the word "husband" should be inserted instead of the word "father."

(h) In the last two cases referred to the words in the paragraph immediately preceding petitioner's first signature should be altered to show that the father's or husband's declaration (as the case may be), or a certified copy thereof, is attached to the original petition, and the statement of the clerk of the court immediately below the first signature of the petitioner should be changed to show the facts. If the petitioner arrived in the United States prior to June 29, 1906, the words in statement immediately preceding the first signature of petitioner and thereafter having reference to the certificate of arrival should also be struck through. If the petitioner arrived in the United States after June 29, 1906, certificate of arrival must be obtained in accordance with rule 5 of these regulations, and the words in the two statements above referred to should remain unaltered with the exception that the last statement should include the number of the certificate of arrival appearing in the upper right-hand corner thereof.

(i) Where a petition for naturalization is filed by the widow of an alien, based upon her own declaration of intention, the date of her husband's demise should be shown in the fifth assertion.

(k) Naturalization papers may be legally filed by any unmarried woman who is otherwise qualified, or the widow of a foreign-born person not naturalized, but not by a woman during the existence of the marital relation. Notation of the facts in each case should be made upon the face of each paper before it is issued.

25. So far as practicable the clerks of the courts having jurisdiction under the provisions of the naturalization laws will be furnished, upon requisition therefor on Form 2201, with appropriately addressed envelopes for communicating with the bureau. When not using such envelopes, however, all communications, in addition to the other necessary address, should be plainly marked "Bureau of Naturalization."

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Courts having jurisdiction to naturalize under the provisions of Act of March 3, 1906, are requested, in case the foregoing rules and regulations leave from their minds doubt as to the proper course of action, to write to the Commissioner of Naturalization, Bureau of Immigration, for instructions before taking such action.

(Signed) W. B. WILSON,
Secretary.

THE ELECTIVE FRANCHISE.

Interference with freedom of elections by officers of Army or Navy.

No officer of the army or navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State.

U. S. R. S., § 2003.

Race, color, or previous condition not to affect the right to vote.

All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

U. S. R. S., § 2004.

AGAINST THE ELECTIVE CHISE AND CIVIL RIGHTS OF CITIZENS.

ters by bribery or threats.

who prevents, hinders, controls, or intimidates another from exercising the right of suffrage, to whom that right is guaranteed by the fifteenth amendment to the Constitution of the United States, or who threatens of depriving such person of employment or of expelling such person from a rented house, lands, or other property, or who threatens of depriving such person of employment or occupation, or who threatens of depriving such person from a rented house, lands, or other property, or who threatens to renew leases or contracts or labor, or by threats or intimidation of family, shall be punished as provided in the preceding

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injure or intimidate citizens in the exercise of civil

to obstruct or to interfere with the exercise, threat or intimidation

Conspiracy to prevent accepting or holding office under United States, etc.

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence, under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of official duties; each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine or imprisonment.

U. S. R. S., § 5518.

Unlawful presence of troops at elections.

Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than five thousand dollars, and suffer imprisonment at hard labor not less than three months nor more than five years.

U. S. R. S., § 5528.

Intimidation of voters by officers, etc., of Army or Navy.

Every officer or other persons in the military or naval service who, by force, threat, intimidation, order, advice, or otherwise, prevents, or attempts to prevent, any qualified voter of any State from freely exercising the right of suffrage at any general or special election in such State, shall be fined not more than five thousand dollars, and imprisoned at hard labor not more than five years.

U. S. R. S., § 5529.

Officers of Army or Navy prescribing qualifications of voters.

Every officer of the Army or Navy who prescribes or fixes, or attempts to prescribe or fix, whether by proclamation, order, or otherwise, the qualifications of voters at any election in any State, shall be punished as provided in the preceding section.

U. S. R. S., § 5530.

Officers, etc., of Army or Navy interfering with officer of election, etc.

Every officer or other person in the military or naval service who, by force, threat, intimidation, order, or otherwise, compels, or attempts to compel, any officer holding an election in any State to receive a vote from a person not legally qualified to vote, or who imposes, or attempts to impose, any regulations for conducting any general or special election in the State different from those prescribed by law, or who interferes in any manner with any officer of any election in the discharge of his duty, shall be punished as provided in section fifty-five hundred and twenty-nine.

U. S. R. S., § 5531.

Disqualification for holding office.

Every person convicted of any of the offenses specified in the five preceding sections, shall, in addition to the punishments therein severally prescribed, be disqualified from holding any office of honor, profit, or trust under the United States; but nothing in those sections shall be construed to prevent any officer, soldier, sailor, or marine from exercising the right of suffrage in any

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to which he may belong, if otherwise qualified according to the law in which he offers to vote.

tions by corporations.

by the Senate and House of Representatives of the United States in Congress assembled. That it shall be unlawful for any corporation organized by authority of any laws of the United States to make any contribution in connection with any election to any office or to any Federal, State or local election, and it shall also be unlawful for any corporation whatever to make any contribution in connection with any election at which Presidential electors or a Representative in Congress or a Senator in the United States is to be elected, by any state legislature or a United States Senator, which shall make any contribution in violation of the foregoing provisions of this act to be subject to a fine not exceeding five thousand dollars, or to imprisonment for not more than one year, or to both such fine and imprisonment, and any director of any corporation who shall consent to any such contribution in violation of the foregoing provisions shall be subject to a fine not exceeding one thousand dollars and hundred and fifty dollars, or to imprisonment for a term of not more than one year, or to both such fine and imprisonment in the discretion of the court.

1907, ch. 420, 34 Stat. 1, 1464

foreign contributions for nomination and election to the representative and senator in the congress of the United States, limiting the amount of campaign expenses.—(H. R. 8011 passed June 25 1910, as amended by act approved August 11 1910, by act approved August 27 1912.)

shall in 1944 the national committees of all political parties congressional campaign committees of all political parties, associations, or organizations which shall in 1944, 1946, 1948, 1950, 1952, 1954, 1956, 1958, 1960, 1962, 1964, 1966, 1968, 1970, 1972, 1974, 1976, 1978, 1980, 1982, 1984, 1986, 1988, 1990, 1992, 1994, 1996, 1998, 2000, 2002, 2004, 2006, 2008, 2010, 2012, 2014, 2016, 2018, 2020, 2022, 2024, 2026, 2028, 2030, 2032, 2034, 2036, 2038, 2040, 2042, 2044, 2046, 2048, 2050, 2052, 2054, 2056, 2058, 2060, 2062, 2064, 2066, 2068, 2070, 2072, 2074, 2076, 2078, 2080, 2082, 2084, 2086, 2088, 2090, 2092, 2094, 2096, 2098, 2100, 2102, 2104, 2106, 2108, 2110, 2112, 2114, 2116, 2118, 2120, 2122, 2124, 2126, 2128, 2130, 2132, 2134, 2136, 2138, 2140, 2142, 2144, 2146, 2148, 2150, 2152, 2154, 2156, 2158, 2160, 2162, 2164, 2166, 2168, 2170, 2172, 2174, 2176, 2178, 2180, 2182, 2184, 2186, 2188, 2190, 2192, 2194, 2196, 2198, 2200, 2202, 2204, 2206, 2208, 2210, 2212, 2214, 2216, 2218, 2220, 2222, 2224, 2226, 2228, 2230, 2232, 2234, 2236, 2238, 2240, 2242, 2244, 2246, 2248, 2250, 2252, 2254, 2256, 2258, 2260, 2262, 2264, 2266, 2268, 2270, 2272, 2274, 2276, 2278, 2280, 2282, 2284, 2286, 2288, 2290, 2292, 2294, 2296, 2298, 2300, 2302, 2304, 2306, 2308, 2310, 2312, 2314, 2316, 2318, 2320, 2322, 2324, 2326, 2328, 2330, 2332, 2334, 2336, 2338, 2340, 2342, 2344, 2346, 2348, 2350, 2352, 2354, 2356, 2358, 2360, 2362, 2364, 2366, 2368, 2370, 2372, 2374, 2376, 2378, 2380, 2382, 2384, 2386, 2388, 2390, 2392, 2394, 2396, 2398, 2400, 2402, 2404, 2406, 2408, 2410, 2412, 2414, 2416, 2418, 2420, 2422, 2424, 2426, 2428, 2430, 2432, 2434, 2436, 2438, 2440, 2442, 2444, 2446, 2448, 2450, 2452, 2454, 2456, 2458, 2460, 2462, 2464, 2466, 2468, 2470, 2472, 2474, 2476, 2478, 2480, 2482, 2484, 2486, 2488, 2490, 2492, 2494, 2496, 2498, 2500, 2502, 2504, 2506, 2508, 2510, 2512, 2514, 2516, 2518, 2520, 2522, 2524, 2526, 2528, 2530, 2532, 2534, 2536, 2538, 2540, 2542, 2544, 2546, 2548, 2550, 2552, 2554, 2556, 2558, 2560, 2562, 2564, 2566, 2568, 2570, 2572, 2574, 2576, 2578, 2580, 2582, 2584, 2586, 2588, 2590, 2592, 2594, 2596, 2598, 2600, 2602, 2604, 2606, 2608, 2610, 2612, 2614, 2616, 2618, 2620, 2622, 2624, 2626, 2628, 2630, 2632, 2634, 2636, 2638, 2640, 2642, 2644, 2646, 2648, 2650, 2652, 2654, 2656, 2658, 2660, 2662, 2664, 2666, 2668, 2670, 2672, 2674, 2676, 2678, 2680, 2682, 2684, 2686, 2688, 2690, 2692, 2694, 2696, 2698, 2700, 2702, 2704, 2706, 2708, 2710, 2712, 2714, 2716, 2718, 2720, 2722, 2724, 2726, 2728, 2730, 2732, 2734, 2736, 2738, 2740, 2742, 2744, 2746, 2748, 2750, 2752, 2754, 2756, 2758, 2760, 2762, 2764, 2766, 2768, 2770, 2772, 2774, 2776, 2778, 2780, 2782, 2784, 2786, 2788, 2790, 2792, 2794, 2796, 2798, 2800, 2802, 2804, 2806, 2808, 2810, 2812, 2814, 2816, 2818, 2820, 2822, 2824, 2826, 2828, 2830, 2832, 2834, 2836, 2838, 2840, 2842, 2844, 2846, 2848, 2850, 2852, 2854, 2856, 2858, 2860, 2862, 2864, 2866, 2868, 2870, 2872, 2874, 2876, 2878, 2880, 2882, 2884, 2886, 2888, 2890, 2892, 2894, 2896, 2898, 2900, 2902, 2904, 2906, 2908, 2910, 2912, 2914, 2916, 2918, 2920, 2922, 2924, 2926, 2928, 2930, 2932, 2934, 2936, 2938, 2940, 2942, 2944, 2946, 2948, 2950, 2952, 2954, 2956, 2958, 2960, 2962, 2964, 2966, 2968, 2970, 2972, 2974, 2976, 2978, 2980, 2982, 2984, 2986, 2988, 2990, 2992, 2994, 2996, 2998, 3000, 3002, 3004, 3006, 3008, 3010, 3012, 3014, 3016, 3018, 3020, 3022, 3024, 3026, 3028, 3030, 3032, 3034, 3036, 3038, 3040, 3042, 3044, 3046, 3048, 3050, 3052, 3054, 3056, 3058, 3060, 3062, 3064, 3066, 3068, 3070, 3072, 3074, 3076, 3078, 3080, 3082, 3084, 3086, 3088, 3090, 3092, 3094, 3096, 3098, 3100, 3102, 3104, 3106, 3108, 3110, 3112, 3114, 3116, 3118, 3120, 3122, 3124, 3126, 3128, 3130, 3132, 3134, 3136, 3138, 3140, 3142, 3144, 3146, 3148, 3150, 3152, 3154, 3156, 3158, 3160, 3162, 3164, 3166, 3168, 3170, 3172, 3174, 3176, 3178, 3180, 3182, 3184, 3186, 3188, 3190, 3192, 3194, 3196, 3198, 3200, 3202, 3204, 3206, 3208, 3210, 3212, 3214, 3216, 3218, 3220, 3222, 3224, 3226, 3228, 3230, 3232, 3234, 3236, 3238, 3240, 3242, 3244, 3246, 3248, 3250, 3252, 3254, 3256, 3258, 3260, 3262, 3264, 3266, 3268, 3270, 3272, 3274, 3276, 3278, 3280, 3282, 3284, 3286, 3288, 3290, 3292, 3294, 3296, 32

render to the treasurer of such political committee a detailed account of the same, together with the name and address from whom received, and said treasurer shall forthwith enter the same in a ledger or record to be kept by him for that purpose.

Sec. 5. That the treasurer of every such political committee shall, not more than fifteen days and not less than ten days next before an election at which Representatives in Congress are to be elected in two or more states, file in the office of the Clerk of the House of Representatives at Washington, District of Columbia, with said clerk, an itemized detailed statement; and on each sixth day thereafter until such election said treasurer shall file with said clerk a supplemental itemized detailed statement. Each of said statements shall conform to the requirements of the following section of this act, except that the supplemental statement herein required need not contain any item of which publicity is given in a previous statement. Each of said statements shall be full and complete, and shall be signed and sworn to by said treasurer.

It shall also be the duty of said treasurer to file a similar statement with said clerk within thirty days after such election, such final statement also to be signed and sworn to by said treasurer and to conform to the requirements of the following section of this act. The statements so filed with the clerk of the House shall be preserved by him for fifteen months and shall be a part of the public records of his office and shall be open to public inspection.

Sec. 6. That the statements required by the preceding section of this act shall state:

First. The name and address of each person, firm, association, or committee who or which has contributed, promised, loaned, or advanced to such political committee, or any officer, member, or agent thereof, either in one or more items, money or its equivalent of the aggregate amount or value of one hundred dollars or more, and the amount or sum contributed, promised, loaned, or advanced by each.

Second. The aggregate sum contributed, promised, loaned, or advanced to such political committee, or to any officer, member, or agent thereof, in amounts of less than one hundred dollars.

Third. The total sum of all contributions, promises, loans, and advances received by such political committee or any officer, member, or agent thereof.

Fourth. The name and address of each person, firm, association, or committee to whom such political committee, or any officer, member, or agent thereof, has distributed, disbursed, contributed, loaned, advanced, or promised any sum of money or its equivalent of the amount or value of ten dollars or more, stating the amount or sum distributed, disbursed, contributed, loaned, advanced, or promised to each, and the purpose thereof.

Fifth. The aggregate sum distributed, disbursed, contributed, loaned, advanced, or promised by such political committee, or any officer, member, or agent thereof, where the amount or value of such distribution, disbursement, loan, advance, or promise to any one person, firm, association, or committee in one or more items is less than ten dollars.

Sixth. The total sum disbursed, distributed, contributed, loaned, advanced, or promised by such political committee, or any officer, member, or agent thereof.

(As amended by act approved August 19, 1911.)

Sec. 7. That every person, firm, association, or committee, except political committees as hereinbefore defined, that shall expend or promise any sum of money or other thing of value amounting to \$50 or more, for the purpose of influencing or controlling, in two or more states, the result of an election at which representatives to the congress of the United

States are elected, unless he or it shall contribute the same to a political committee as hereinbefore defined, shall file the statements of the same under oath, as required by section 5 of this act, in the office of the clerk of the house of representatives, at Washington, D. C., which statements shall be held by said clerk in all respects as required by section 5 of this act.

Sec. 8. The word "candidate" as used in this section shall include all persons whose names are presented for nomination for representative or senator in the congress of the United States at any primary election or nominating convention, or for indorsement or election at any general or special election held in connection with the nomination or election of a person to fill such office, whether or not such persons are actually nominated, indorsed, or elected.

Every person who shall be a candidate for nomination at any primary election or nominating convention, or for election at any general or special election, as representative in the congress of the United States, shall, not less than ten nor more than fifteen days before the day for holding such primary election or nominating convention, and not less than ten nor more than fifteen days before the day of the general or special election at which candidates for representatives are to be elected, file with the clerk of the house of representatives at Washington, District of Columbia, a full, correct, and itemized statement of all moneys and things of value received by him or by anyone for him with his knowledge and consent, from any source, in aid or support of his candidacy, together with the names of all those who have furnished the same in whole or in part; and such statement shall contain a true and itemized account of all moneys and things of value given, contributed, expended, used, or promised by such candidate, or by his agent, representative, or other person for and in his behalf with his knowledge and consent, together with the names of all those to whom any and all such gifts, contributions, payments, or promises were made, for the purpose of procuring his nomination or election.

Every person who shall be a candidate for nomination at any primary election or nominating convention, or for indorsement at any general or special election, or election by the legislature of any state, as senator in the congress of the United States, shall, not less than ten nor more than fifteen days before the day for holding such primary election or nominating convention, and not less than ten nor more than fifteen days before the day of the general or special election at which he is seeking indorsement, and not less than five nor more than ten days before the day upon which the first vote is to be taken in the two houses of the legislature before which he is a candidate for election as senator, file with the secretary of the senate at Washington, District of Columbia, a full, correct, and itemized statement of all moneys and things of value received by him or by anyone for him with his knowledge and consent, from any source, in aid or support of his candidacy, together with the names of all those who have furnished the same in whole or in part; and such statement shall contain a true and itemized account of all moneys and things of value given, contributed, expended, used, or promised by such candidate, or by his agent, representative, or other person for and in his behalf with his knowledge and consent, together with the names of all those to whom any and all such gifts, contributions, payments, or promises were made for the purpose of procuring his nomination or election.

Every such candidate for nomination at any primary election or nominating convention, or for indorsement or election at any general or spe-

cial election, or for election by the legislature of any state, shall, within fifteen days after such primary election or nominating convention, and within thirty days after any such general or special election, and within thirty days after the day upon which the legislature shall have elected a senator, file with the clerk of the house of representatives or with the secretary of the senate, as the case may be, a full, correct, and itemized statement of all moneys and things of value received by him or by anyone for him with his knowledge and consent, from any source, in aid or support of his candidacy, together with the names of all those who have furnished the same in whole or in part; and such statement shall contain a true and itemized account of all moneys and things of value given, contributed, expended, used, or promised by such candidate, or by his agent, representative, or other person for and in his behalf with his knowledge and consent, up to, on, and after the day of such primary election, nominating convention, general or special election or election by the legislature, together with the names of all those to whom any and all such gifts, contributions, payments, or promises were made for the purpose of procuring his nomination, indorsement, or election.

Every such candidate shall include therein a statement of every promise or pledge made by him, or by any one for him with his knowledge and consent or to whom he has given authority to make any such promise or pledge, before the completion of any such primary election or nominating convention or general or special election or election by the legislature, relative to the appointment or recommendation for appointment of any person to any position of trust, honor, or profit, either in the county, state, or nation, or in any political subdivision thereof, or in any private or corporate employment, for the purpose of procuring the support of such person or of any person in his candidacy, and if any such promise or pledge shall have been made the name or names, the address or addresses, and the occupation or occupations, of the person or persons to whom such promise or pledge shall have been made, shall be stated, together with a description of the position relating to which such promise or pledge has been made. In the event that no such promise or pledge has been made by such candidate, that fact shall be distinctly stated.

No candidate for representative in congress or for senator of the United States shall promise any office or position to any person, or to use his influence or to give his support to any person for any office or position for the purpose of procuring the support of such person, or of any person, in his candidacy; nor shall any candidate for senator of the United States give, contribute, expend, use, or promise any money or thing of value to assist in procuring the nomination or election of any particular candidate for the legislature of the state in which he resides, but such candidate may, within the limitations and restrictions and subject to the requirements of this act, contribute to political committees having charge of the disbursement of campaign funds.

No candidate for representative in congress or for senator of the United States shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination and election, any sum, in the aggregate, in excess of the amount which he may lawfully give, contribute, expend, or promise under the laws of the state in which he resides: Provided, That no candidate for representative in congress shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding five thousand dollars in

any campaign for his nomination and election; and no candidate for senator of the United States shall give, contribute, expend, use, or promise any sum, in the aggregate, exceeding ten thousand dollars in any campaign for his nomination and election: Provided further, That money expended by any such candidate to meet and discharge any assessment, fee, or charge made or levied upon candidates by the laws of the state in which he resides, or for his necessary personal expenses, incurred for himself alone, for travel and subsistence, stationery and postage, writing or printing (other than in newspapers), and distributing letters, circulars, and posters, and for telegraph and telephone service, shall not be regarded as an expenditure within the meaning of this section, and shall not be considered any part of the sum herein fixed as the limit of expense and need not be shown in the statements herein required to be filed.

The statements herein required to be made and filed before the general election, or the election by the legislature at which such candidate seeks election, need not contain items of which publicity is given in a previous statement, but the statement required to be made and filed after said general election or election by the legislature shall, in addition to an itemized statement of all expenses not theretofore given publicity, contain a summary of all preceding statements.

Any person, not then a candidate for senator of the United States, who shall have given, contributed, expended, used, or promised any money or thing of value to aid or assist in the nomination or election of any particular member of the legislature of the state in which he resides, shall, if he thereafter becomes a candidate for such office, or if he shall thereafter be elected to such office without becoming a candidate therefor, comply with all of the provisions of this section relating to candidates for such office, so far as the same may be applicable; and the statement herein required to be made, verified, and filed after such election shall contain a full, true, and itemized account of each and every gift, contribution, expenditure, and promise whenever made, in any wise relating to the nomination or election of members of the legislature of said state, or in any wise connected with or pertaining to his nomination and election of which publicity is not given in a previous statement.

Every statement herein required shall be verified by the oath or affirmation of the candidate, taken before an officer authorized to administer oaths; and the depositing of any such statement in a regular post office, directed to the Clerk of the House of Representatives, or to the Secretary of the Senate, as the case may be, duly stamped and registered, within the time required herein, shall be deemed a sufficient filing of any such statement under any of the provisions of this Act.

(As amended by act approved August 23, 1912.)

This act shall not be construed to annul or vitiate the laws of any state, not directly in conflict herewith, relating to the nomination or election of candidates for the offices herein named, or to exempt any such candidate from complying with such state laws.

(As amended by act approved August 19, 1911.)

CRIMES AGAINST ELECTIVE FRANCHISE.

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Sec. 9. That any person may in connection with such election incur and pay from his own private funds for the purpose of influencing or controlling, in two or more states, the results of an election at which representatives to the congress of the United States are elected, all necessary personal expenses for his traveling, for stationery, and postage, and for telegraph and telephone service without being subject to the provisions of this act.

(Formerly section 8. Amended and renumbered by act approved August 19, 1911.)

Sec. 10. That nothing contained in this act shall limit or affect the right of any person to spend money for proper legal expenses in maintaining or contesting the results of any election.

(Formerly section 9. Renumbered by act approved August 19, 1911.)

Sec. 11. That every person willfully violating any of the foregoing provisions of this act shall, upon conviction, be fined not more than \$1,000 or imprisoned not more than one year, or both.

(Formerly section 10. Renumbered by act approved August 19, 1911.)





PART 4.

POLITICAL DIVISIONS OF STATE COUNTIES AND TOWNS.



ELECTION DISTRICTS.

Number of Election Districts in New York State, as Reported by Boards of Elections, July 1, 1916.

	Districts.		Districts.
Albany	175	Oneida	116
Allegany	38	Onondaga	157
Bronx	241	Ontario	54
Broome	86	Orange	87
Cattaraugus	60	Orleans	31
Cayuga	52	Oswego	71
Chautauqua	74	Otsego	59
Chemung	46	Putnam	15
Chenango	40	Queens	163
Clinton	40	Rensselaer	99
Columbia	43	Richmond	48
Cortland	36	Rockland	41
Delaware	51	St. Lawrence	90
Dutchess	71	Saratoga	70
Erie	208	Schenectady	57
Essex	33	Schoharie	30
Franklin	38	Schuyler	18
Fulton	42	Seneca	25
Genesee	28	Steuben	76
Greene	31	Suffolk	96
Hamilton	11	Sullivan	37
Herkimer	44	Tioga	38
Jefferson	91	Tompkins	39
Kings	702	Ulster	76
Lewis	35	Warren	27
Livingston	37	Washington	50
Madison	51	Wayne	50
Monroe	187	Westchester	221
Montgomery	42	Wyoming	33
Nassau	72	Yates	21
New York	695		
Niagara	69	Total	5,524

As to creation, division and alteration of election districts, see Election Law, §§ 296, 297.

As to maps and certificates of boundaries of election districts, see Election Law, § 208.

TURNING THE STATE INTO CONGRESSIONAL DE

Abstract

The county of Suffolk, the county of Nassau, the thirty-third election districts of the second assembly of Queens, the twenty-first, twenty-fifth, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second and thirty-fifth election assembly district of the county of Queens, as not impose the first district. The boundaries of the follows Suffolk county, Nassau county, and that bounded as follows. Beginning at the boundary and Queens county at Central avenue, and running in a westerly direction to Farmers avenue, the tion along Farmers avenue to the junction of 1 and Old Country road, running along Old Country, thence westerly along Fulton street to Bergenly along Bergen avenue to Hillside avenue, east to Grand avenue, thence northerly on Grand a line between the third and fourth wards, thence lary line between the third and fourth wards to lary line between the second and third wards

teenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first and forty-second election districts of the third assembly district of the county of Queens and the fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-second, twenty-third and twenty-fourth election districts of the fourth assembly district of the county of Queens, shall compose the second district. The boundaries of the said second district are as follows: Beginning at Central avenue on the boundary line between the county of Queens and the county of Nassau and running along said boundary line in a southerly direction to the Atlantic ocean, thence along said Atlantic ocean to Rockaway inlet and the boundary line between the county of Kings and the county of Queens, thence along said boundary line between said counties in a northeasterly and northerly direction to Atlantic avenue, thence easterly along Atlantic avenue to Morris avenue, thence southerly along Morris avenue to Rockaway road, thence southeasterly along Rockaway road to Bergen Landing road, thence northeasterly along Bergen Landing road to Van Wyck avenue; along Van Wyck avenue northerly to Newtown road, thence northwesterly along Newtown road to the boundary line between the second and third wards of the borough of Queens, thence westerly along said boundary line and the boundary line between the county of Kings and the county of Queens, thence northwesterly along said boundary line to Newtown creek, thence northwesterly along Newtown creek to the East river, thence along said East river and Long Island sound through Powell's cove to the point where the boulevard intersects Powell's cove, thence in a southerly direction along the boulevard to Eighteenth street, thence easterly along Eighteenth street to Whitestone avenue, then in a southwesterly direction along Whitestone avenue to Union avenue and along Union avenue to Lincoln street, thence along Lincoln street to Main street, thence along Main street to Bradford avenue, thence along Bradford avenue to Lawrence avenue, thence along Lawrence avenue in a southwesterly direction along the boundary line between the second and third wards of the borough of Queens, the same being the Ireland Mill road to Strong's causeway, thence along Strong's causeway to Flushing creek, thence along said Flushing creek and said boundary line between the second and third wards, in a southerly direction to the boundary between the third and fourth wards of said borough of Queens, thence easterly along the said boundary line between the third and fourth wards of the borough of Queens to Grand avenue, thence southerly along Grand avenue to Hillside avenue, thence westerly along Hillside avenue to Bergen avenue, thence southerly along Bergen avenue to Fulton street, thence easterly along Fulton street to Old Country road, thence southeasterly along Old Country road to Farmers avenue, thence southerly along Farmers avenue to Central avenue, thence southeasterly along Central avenue to the point or place of beginning in the boundary line between the county of Queens and the county of Nassau.

POLITICAL DIVISIONS OF STATE, ETC.

t. The third congressional district shall consist of the county of Kings, within and bounded by a line beginning at the East river and North Eleventh street, thence along North Eleventh street, to North Twelfth street, to Union avenue, to Myrtle street, to Broadway, to Walton street, to Throop street, to Harrison avenue, to Flushing avenue, to Broadway, to Hamburg avenue, to Stanhope street, to the boundary line of Queens county, thence along said boundary line to Newtown creek, through the waters of Newtown creek to East river; thence along the East river to the point of beginning.

u. The fourth congressional district shall consist of the county of Kings, within and bounded by a line beginning at New York bay and Sixty-third street, thence along Sixty-third street, to Sixty-fifth street, to Sixth avenue, to Fort Worth avenue, to Fortieth street, to Fort Hamilton avenue, to Gravesend avenue, to Terrace place, to Eleventh avenue, to Terrace place, to Prospect avenue, to Fourth avenue, to Fifth avenue, to Saint Mark's avenue or place, to Green street, to Boerum place, to Dean street, to Court street, to Clinton street, to Warren street, to Columbia street, to the waters of Buttermilk channel and East river; thence along the waters of Buttermilk channel to the waters of New York bay, thence along the waters of New York bay to the point of beginning.

v. The fifth congressional district shall consist of the county of Kings, within and bounded by a line beginning at the East river and Nevine street, thence along Nevine street, to the waters of New York bay, thence along the waters of New York bay to the point of beginning.

to Fourteenth avenue, to Forty-fourth street, to Fifteenth avenue, to Fifteenth street, to Sixteenth avenue, to Forty-ninth street, to Nineteenth avenue, to Forty-seventh street, to Washington avenue, to Parkville avenue, to Gravesend avenue, to Foster avenue, to East Seventeenth street, to Avenue I, to Flatbush avenue, to East Thirty-fourth street, to Avenue J, to Schenectady avenue, to Glenwood road, to East Forty-sixth street, to Farragut road, to Schenectady avenue, to Clarendon road, to Ralph avenue, to Church avenue, to East Ninety-first street, to Linden avenue, to Rockaway parkway, to Church avenue, to East Ninety-eighth street, to Lott avenue, to Thatford avenue, to Livonia avenue, to Osborn street, to Dumont avenue, to Thatford avenue, to Sutter avenue, to Howard avenue, to Pacific street, to Ralph avenue, to Atlantic avenue, to Utica avenue, to Pacific street, to Schenectady avenue, to Fulton street, to Sumner avenue, to McDonough street, to Lewis avenue, to Greene avenue, to Nostrand avenue, to the point of beginning.

Seventh district. The seventh congressional district shall consist of that part of the county of Kings, within and bounded by a line beginning at the intersection of the waters of Buttermilk channel, East river, and Congress street, thence along Congress street to Columbia street, to Warren street, to Clinton street, to Amity street, to Court street, to Dean street, to Boerum place, to Bergen street, to Nevins street, to Atlantic avenue, to Bond street, to Fulton street, to Hudson avenue, to DeKalb avenue, to Washington park or Cumberland street, to Myrtle avenue, to Spencer street, to Willoughby avenue, to Nostrand avenue, to Flushing avenue, to Harrison avenue, to Lorimer street, to Throop avenue, to Walton street, to Broadway, to Lorimer street, to Frost street, to Union avenue, to North Twelfth street, to Berry street, to North Eleventh street, to the waters of East river; thence through the waters of East river to the waters of Buttermilk channel, to the point of beginning.

Eighth district. The Eighth congressional district shall consist of that part of the county of Kings, within and bounded by a line beginning at the intersection of Sutter avenue and Williams avenue, thence along Williams avenue to Blake avenue, to Pennsylvania avenue, to Hegeman avenue, to New Jersey avenue, to Vienna avenue, to Pennsylvania avenue, to the waters of Jamaica bay, thence southerly through the waters of Jamaica bay to a point east of Duck Point marsh, thence southerly and easterly to the boundary line of Kings and Queens counties, thence southerly and westerly along said boundary line, south of Barren island, to the Atlantic ocean, thence through the waters of the Atlantic ocean to the waters of Gravesend bay; through the waters of Gravesend bay to the Narrows or New York bay; through said waters to Sixty-third street; thence along Sixty-third street to Third avenue, to Sixty-fifth street, to Sixth avenue, to Forty-ninth street, to Seventh avenue, to Fortieth street, to Fort Hamilton avenue or parkway, to Thirty-ninth street, to Twelfth avenue, to Fortieth street, to Thirteenth avenue, to Forty-first street, to Fourteenth avenue, to Forty-fourth street, to Fifteenth avenue, to Fiftieth street, to Sixteenth avenue, to Forty-ninth street, to Nineteenth avenue, to Forty-seventh street, to Washington avenue or Parkville avenue, to Gravesend avenue, to Foster avenue, to East Seventeenth street, to Avenue I, to Flatbush avenue, to East Thirty-fourth street, to Avenue J, to Schenectady avenue, to Glenwood road,

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y-ninth street, to Farragut road, to Schenectady avenue, to Ralph avenue, to Church avenue, to East Ninth street, to Lott avenue, to Thatford avenue, to Livonia street, to Dumont avenue, to Thatford avenue, to the point of beginning.

§ 1. The ninth congressional district shall consist of the city of Kings, within and bounded by a line beginning at the boundary line of Kings and Queens counties and State of New York, along Stanhope street to Hamburg avenue, to DeKalb street, to Hopkinson avenue, to Melkonnough street, to Broadway, to Alabama avenue, to Atlantic avenue, to William street, to Pennsylvania avenue, to Hegeman avenue, to Vienna avenue, to Pennsylvania avenue, to the water thence southerly through the waters of Jamaica bay to Point marsh, thence southerly and easterly to the boundary line of Queens counties, thence northerly and westerly along said boundary line to the point where said line is intersected by Atlantic avenue; thence along Atlantic avenue, in the city of Kings, to Rockaway plank road, to Bergen landing street, to Newtown road, to the boundary line of the city of Kings in the said county, to the boundary line of Kings and Queens counties, thence westerly and northerly along said line to the point of beginning.

§ 2. The tenth congressional district shall consist of the city of Kings, within and bounded by a line beginning at the boundary line of Kings and Queens counties and State of New York, along Stanhope street to Hamburg avenue, to DeKalb street, to Hopkinson avenue, to Melkonnough street, to Broadway, to Alabama avenue, to Atlantic avenue, to William street, to Pennsylvania avenue, to Hegeman avenue, to Vienna avenue, to Pennsylvania avenue, to the water thence southerly through the waters of Jamaica bay to Point marsh, thence southerly and easterly to the boundary line of Queens counties, thence northerly and westerly along said boundary line to the point where said line is intersected by Atlantic avenue; thence along Atlantic avenue, in the city of Kings, to Rockaway plank road, to Bergen landing street, to Newtown road, to the boundary line of the city of Kings in the said county, to the boundary line of Kings and Queens counties, thence westerly and northerly along said line to the point of beginning.

street, along William street to North William street, along North William street to Park row and along Park row to the point or place of beginning; that portion of the third assembly district of the county of New York bounded on the north by Canal street; on the east by Chrystie street to Division street, along Division street to Catherine street, along Catherine street to East Broadway, to Chatham square, to Worth street; on the south by Worth street, and on the west by Broadway; that portion of the eighth assembly district of the county of New York bounded on the north by Canal street to Division street; on the southeast by Division street to Market street, along Market street to Henry street, along Henry street to Catherine street, along Catherine street to Division street, along Division street to Chrystie street, and on the west by Chrystie street; that portion of the fifth assembly district of the county of New York bounded on the northwest by Christopher street; on the northeast by Bleecker street; on the southeast by Carmine street, along Carmine street to Clarkson street, along Clarkson street to the North river; on the west by the North river, shall compose the eleventh district. The boundaries of said eleventh district are as follows: All of Richmond county, Governor's island, Bedloe's island and Ellis island and that portion of New York county beginning at Christopher st. and North river; northeast along Christopher street to Bleecker street, thence southeast along Bleecker street to Carmine street, thence northeast along Carmine street to Sixth avenue, thence northerly along Sixth avenue to West Third street, thence easterly along West Third street to Sullivan street, thence southerly along Sullivan street to Canal street, thence easterly along Canal street to Division street, thence southwest along Division street to Market street, thence southeast along Market street to the East river, thence southwest along the East river to the North river and northwest along the North river to the point or place of beginning.

Twelfth district. The fourth assembly district of the county of New York; that portion of the second assembly district of the county of New York bounded on the northwest by Henry street, to Clinton street, along Clinton street to Grand street, along Grand street to Gouverneur street, along Gouverneur street to Madison street, along Madison street to Montgomery street, along Montgomery street to Cherry street, along Cherry street to Clinton street, along Clinton street to the East river, along the East river to Market street, along Market street to Henry street; that portion of the sixth assembly district of the county of New York bounded on the north by East Fourth street; on the east by the East river; on the south by Stanton street; on the west by Pitt street and Avenue C and that portion of the eighth assembly district of the county of New York bounded on the north by Stanton street; on the east by Clinton street; on the southeast by Henry street to Market street, along Market street to Division street, along Division street to Essex street; on the west by Essex street to Stanton street, shall compose the twelfth district. The boundaries of the said twelfth district are as follows: Beginning at the East river and Market street; northwest to East Broadway; northeast along East Broadway to Essex street; northerly along Essex street to Stanton street; northeast along Stanton street to Pitt street, northerly along Pitt street and Avenue C to East Fourth street; easterly along East Fourth street to the East river, along the East river to the point or place of beginning.

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district. That portion of the first assembly district of New York bounded on the north by West Third street; on the south by Canal street; on the west by Division street; that portion of the third assembly district of the county of New York bounded on the north by Great Jones street, to Lafayette street; on the east by East Fourth street; along East Fourth street to East Second avenue and Chrystie street to Canal street; on the west by Broadway; that portion of the fourth assembly district of the county of New York bounded on the north by Division street; on the east by Essex street, on the south by Division street, on the west by Chrystie street; that portion of the fifth assembly district of the county of New York bounded on the north by Division street; on the east by Avenue B; along Avenue B to East Fourth street; along East Fourth street to Avenue C; on the east by Avenue C and Pitt street to Stanton street; on the west by Norfolk street, along Norfolk street, along East Houston street, to Avenue A, along Avenue A to Division street; that portion of the tenth assembly district of the county of New York bounded on the north by East Fourth street, shall compose the thirteenth assembly district. The boundaries of the said thirteenth district are as follows. Begin at Division street, easterly along West Third and Grand streets, northerly along Lafayette street to East Fourth street, along East Fourth street to Avenue C, southerly along Avenue C to Stanton street; westerly along Stanton street to Division street; southerly along Essex street to Division street, to Canal street to Sullivan street; northerly along

Fifteenth district. The territory included within the following boundaries shall compose the fifteenth district: Beginning at the Hudson river and West Sixty-second street, thence easterly along West Sixty-second street to Amsterdam avenue, along Amsterdam avenue to West Sixtieth street, along West Sixtieth street to Columbus avenue, along Columbus and Ninth avenues to West Fifty-fifth street, along West Fifty-fifth street to Eighth avenue, along Eighth avenue to West Thirty-eighth street, along West Thirty-eighth street to Seventh avenue, along Seventh avenue to West Fourteenth street, along West Fourteenth street to the Hudson river, and thence along the Hudson river to West Sixty-second street, the point or place of beginning.

Sixteenth district. The territory included within the following boundaries shall compose the sixteenth district: All of Blackwell's island and that portion of the county of New York beginning at the East river and East Sixty-third street, and running westerly along East Sixty-third street to Third avenue, along Third avenue to East Sixty-first street, along East Sixty-first street to Lexington avenue, along Lexington avenue to East Sixty-second street, along East Sixty-second street to Park avenue, along Park and Fourth avenues to East Fourteenth street, along East Fourteenth street to the East river and along the East river to East Sixty-third street, the point or place of beginning.

Seventeenth district. The territory included within the following boundaries shall compose the seventeenth district: Beginning at West Eighty-sixth street and the Hudson river; thence easterly along West Eighty-sixth street to Central park west; along Central park west to West Ninety-ninth street, thence across and through Central park to Fifth avenue and East Ninety-ninth street, along East Ninety-ninth street to Lexington avenue, along Lexington avenue to East Seventy-third street, along East Seventy-third street to Third avenue, along Third avenue to East Sixty-first street, along East Sixty-first street to Lexington avenue, along Lexington avenue to East Sixty-second street, along East Sixty-second street to Park avenue, along Park and Fourth avenues to East Fourteenth street, along East Fourteenth street and West Fourteenth street to Seventh avenue, along Seventh avenue to West Thirty-eight street, along West Thirty-eight street to Eighth avenue, along Eighth avenue to West Fifty-fifth street, along West Fifty-fifth street to Ninth avenue, along Ninth and Columbus avenues to West Sixtieth street, along West Sixtieth street to Amsterdam avenue, along Amsterdam avenue to West Sixty-second street, along West Sixty-second street to the Hudson river and along the Hudson river to West Eighty-sixth street, the point or place of beginning.

Eighteenth district. The territory included within the following boundaries shall compose the eighteenth district: Beginning at the East river and East Sixty-third street; thence westerly along East Sixty-third street to Third avenue, along Third avenue to East Seventy-third street, along East Seventy-third street to Lexington avenue, along Lexington avenue to East Ninety-ninth street, along East Ninety-ninth street to the East river and along the East river to East Sixty-third street, the point or place of beginning.

Nineteenth district. All that portion of the fifteenth assembly district of the county of New York lying north of West Eighty-sixth street; that portion of the seventeenth assembly district of the county of New York lying north of West Eighty-sixth street; that portion of the nineteenth assembly district of the county of New York beginning at the intersection of West One Hundred and Twenty-fifth street and Morningside avenue east,

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Westerly along said West One Hundred and Twenty-fifth street to Central park and across said park to the North river, line of the last aforementioned assembly district lying south of the twenty-first assembly district of the county of New York south of West One Hundred and Twenty-fifth street and west of the line of the twenty-sixth assembly district of the county of New York, shall compose the nine boundaries of the said nineteenth district are as follows: North river, at a point opposite the westerly end of West One Hundred and Twenty-fifth street, running easterly across Riverside park to Fifth avenue and across Mount Morris park, into and across East One Hundred and Sixteenth street; easterly along East One Hundred and Sixteenth street to Madison avenue; southerly along Madison avenue to East One Hundred and Tenth street; westerly along East One Hundred and Tenth street to Fifth avenue; southerly along Fifth avenue to West One Hundred and Twenty-fifth street; westerly across Central park to West One Hundred and Twenty-fifth street; southerly along Central park west to West One Hundred and Twenty-fifth street.

One Hundred and Eighteenth street; that portion of the thirtieth assembly district of the county of New York bounded on the north by East One Hundred and Eighteenth street; east by Second avenue; south by East One Hundred and Seventeenth street; west by Third avenue; and in addition that portion of the last aforementioned assembly district bounded on the north by East One Hundred and Seventeenth street; on the east by the East river; on the south by East One Hundred and Sixteenth street to Pleasant avenue, along Pleasant avenue to East One Hundred and Fifteenth street, along East One Hundred and Fifteenth street to Second avenue; on the west by Second avenue, shall compose the twentieth district. The boundaries of the said twentieth district are as follows: All of Ward's island and Randall's island and that portion of New York county beginning at the intersection of Fifth avenue and East One Hundred and Twentieth street, along East One Hundred and Twentieth street to Park avenue; southerly on Park avenue to East One Hundred and Eighteenth st.; easterly along East One Hundred and Eighteenth street to Second avenue; southerly along Second avenue to East One Hundred and Seventeenth street; easterly along East One Hundred and Seventeenth street to the East river, along the East river to East Ninety-ninth street; westerly along East Ninety-ninth street to Fifth avenue; northerly along Fifth avenue to East One Hundred and Tenth street; easterly along East One Hundred and Tenth street to Madison avenue; northerly along Madison avenue to East One Hundred and Sixteenth street; westerly along East One Hundred and Sixteenth street to Fifth avenue; northerly along Fifth avenue to East One Hundred and Twentieth street, the point or place of beginning.

Twenty-first district. The territory included within the following boundaries shall compose the twenty-first district: That portion of the county of New York beginning at the intersection of Fifth avenue and West One Hundred and Twenty-fifth street and running thence westerly along West One Hundred and Twenty-fifth street to the Hudson river, and thence along the Hudson river to Spuyten Duyvil creek, thence through Spuyten Duyvil creek and the Harlem river, and along the boundary line between New York and Bronx counties to Eighth avenue; thence southerly along Eighth avenue to West One Hundred and Forty-fifth street, along West One Hundred and Forty-fifth street to the Harlem river and along the Harlem river to Fifth avenue, and along Fifth avenue to West One Hundred and Twenty-fifth street, the point or place of beginning.

Twenty-second district. The territory included within the following boundaries shall compose the twenty-second district: North Brother's island, South Brother's island, Riker's island, and that portion of the county of New York, beginning at the Harlem river and East One Hundred and Seventeenth street, and thence westerly along East One Hundred and Seventeenth

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... avenue, along Second avenue to East One Hundred
... t, along East One Hundred and Eighteenth street
... ark avenue to East One Hundred and Twentieth street
... red and Twentieth street to Fifth avenue, thence
... ark and along Fifth avenue to the Harlem river, an
... r to West One Hundred and Forty-fifth street, along
... l Forty-fifth street to Eighth avenue, along Eighth av
... r, thence along the Harlem river to East One Hund
... et, the point or place of beginning; and that portion
... x beginning at Jerome avenue and the Harlem river,
... venue to East One Hundred and Sixty-first street, as
... red and Sixty-first street to Melrose avenue, along
... One Hundred and Fifty-seventh street, along Ea
... fty seventh street to Third avenue, along Third av
... l and Fifty-sixth st., along East One Hundred and Fif
... Ann's avenue, along Saint Ann's avenue to East One I
... street, along East One Hundred and Forty-ninth st
... thence along the East river, Bronx kills and the Harl
... e, the point or place of beginning.

... district The territory within the following boundari
... nty third district That portion of Bronx county be
... ver and Jerome avenue, thence along Jerome avenue
... l Sixty-first street, along East One Hundred and Six
... d Sixty-first street, along East One Hundred

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along Prospect ave. to Freeman ave., along Freeman ave. to Southern boulevard, along Southern boulevard to Pelham ave., along Pelham ave. to Bronx river, along the Bronx river to the boundary line between the city of New York and the city of Mount Vernon, and that portion of the county of Westchester containing the city of Yonkers, the city of Mount Vernon, the town of Eastchester and the town of Pelham, shall compose the twenty-fourth district. The boundaries of the said twenty-fourth district are as follows: All of City island, Hunter's island, Hart's island, Twin island, Middle Reef island, Rat island, The Bluezes and Chimney Sweep and beginning at the Bronx river at the intersection of said river and the boundary line between the city of New York and the city of Yonkers, running westerly along said boundary line between the city of New York and the city of Yonkers, to the Hudson river, along the Hudson river northerly to the boundary lines of the city of Yonkers and the town of Greenburg; easterly along the said boundary line to the point where said boundary line meets the boundary lines between the towns of Greenburg, Scarsdale and Eastchester, thence southeast along the boundary line between the towns of Scarsdale and Eastchester; southerly along the boundary line between the town of Eastchester and the city of New Rochelle, and along said boundary line to the point where said boundary line meets the boundary line of the city of Mount Vernon and the town of Pelham, and along the boundary line between the city of New Rochelle and the town of Pelham to Long Island sound, to the East river, along the East river to East One Hundred and Forty-ninth st., in the borough of the Bronx; northwesterly along East One Hundred and Forty-ninth street to Prospect avenue; northerly along Prospect avenue to Freeman avenue; northeasterly on Freeman avenue to Southern boulevard; northerly through Southern boulevard to Pelham avenue; easterly on Pelham avenue to the Bronx river, along the Bronx river to the intersecting boundary line of the city of New York and the city of Yonkers, the point or place of beginning.

Twenty-fifth district. The county of Rockland and the county of Westchester, except that portion lying within the city of Yonkers, the city of Mount Vernon, the town of Eastchester and the town of Pelham as at present constituted, shall compose the twenty-fifth district.

Twenty-sixth district. The counties of Orange, Putnam and Dutchess shall compose the twenty-sixth district.

Twenty-seventh district. The counties of Sullivan, Ulster, Greene, Columbia and Schoharie shall compose the twenty-seventh district.

Twenty-eighth district. The county of Albany, and the first, second, third, fourth, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth wards of the city of Troy, as now constituted, shall compose the twenty-eighth district.

Twenty-ninth district. All of the county of Rensselaer, except the first,

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with, sixth, seventh, eighth, ninth, tenth, eleventh and twelfth
of Troy, as now constituted, the counties of Washington,
Ulster shall compose the twenty-fourth district.

district. The counties of Schoharie, Montgomery, Fulton and
Columbia shall compose the thirty-third district.

district. The counties of Essex, Chateau, Franklin and Saratoga
shall compose the thirty-first district.

district. The counties of Jefferson, Lewis, Orange and Madison
shall compose the thirty-second district.

district. The counties of Oneida and Herkimer shall compose
the thirty-fifth district.

district. The counties of Otsego, Delaware, Broome and
Cattaraugus shall compose the thirty-fourth district.

district. The counties of Oneida and Cortland shall compose
the thirty-sixth district.

district. The counties of Cayuga, Wayne, Seneca, Yates and
Chautauque shall compose the thirty-eighth district.

district. The counties of Tompkins, Tioga, Chemung,
Warren and Yates shall compose the thirty-seventh district.

district. The first, second, third and fourth assembly districts
of Monroe, as now constituted, shall compose the thirty-ninth
district.

district. The fifth assembly district of the county of Monroe,
as now constituted, shall compose the fortieth district.

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Forty-third district. The counties of Chautauqua, Cattaragus and Allegany shall compose the forty-third district.

§ 2. Assembly districts, towns, wards and election districts defined. The words "assembly district" when used in this act refer to assembly districts as at present constituted. Whenever the word "town," "towns," "ward," "wards," "election district" or "election districts" is used in this act it shall be understood to refer to the town, towns, ward, wards, election district or election districts as constituted at the time of the passage of this act.

§ 3. Repeal. All acts or parts of acts inconsistent with this act are hereby repealed.*

§ 4. This act shall take effect immediately.

* State Law, §§ 110 and 111 are apparently repealed and superseded by this act.



SENATE DISTRICTS AND APPORTIONMENT OF THE MEMBERS OF ASSEMBLY OF THE STATE.

Senate districts. The senate districts of this state from and after the time this section takes effect, shall consist as follows:

First. The first senate district shall consist of the counties of Nassau and Suffolk.

Second. The second senate district shall consist of that part of the county of Queens, within and bounded by a line, beginning at Strong causeway on Flushing creek and running thence along Flushing creek to the junction of Ireland Mill road, thence along Ireland Mill road to Lawrence street, to Bradford avenue, to Main street, to Lincoln street, to Union avenue, to Whitestone avenue, to Bayside avenue, to Little Bayside road, to Poppenhausen avenue, to Bell avenue, to Mulford avenue, to the waters of Little Neck bay, thence easterly through the waters of Little Neck bay to the boundary line of Queens and Nassau counties, thence southerly along said boundary line to the Atlantic ocean, thence westerly through the waters of the Atlantic ocean to the boundary line of Kings and Queens counties, thence northerly along said boundary line to Woodbine street, thence along Woodbine street to Woodward avenue, to Palmetto street, to Grandview avenue, to Linden street, to Forest avenue, to Gates avenue, to Fresh Pond road, to Woodbine street, to Long Island railroad, to Woodhaven avenue, to White Pot road, to Astoria road, to North Hempstead plank road, to Lawn avenue, to the stream connecting Lawn avenue and Flushing creek, thence along said stream to its junction with Flushing creek, thence along Flushing creek to Strong causeway, the place of beginning.

Third. The third senate district shall consist of that part of the county of Queens, within and bounded by a line, beginning at Strong causeway on Flushing creek and running thence along Flushing creek to the junction of Ireland Mill road, thence along Ireland Mill road to Lawrence street, to Bradford avenue, to Main street, to Lincoln street, to Union avenue, to Whitestone avenue, to Bayside avenue, to Little Bayside road, to Poppenhausen avenue, to Bell avenue, to Mulford avenue, to the waters of Little Neck bay, thence northerly, westerly and southerly through the waters of Little Neck bay, Long Island sound, East river and Newtown creek to the boundary line of Kings and Queens counties, thence southerly along said boundary line to Woodbine street, thence along Woodbine street, to Woodward avenue, to Palmetto street, to Grandview avenue, to Linden street, to Forest avenue, to Gates avenue, to Fresh Pond road, to Woodbine street, to Long Island railroad, to Woodhaven avenue, to White Pot road, to Astoria road, to North Hempstead plank road, to Lawn avenue, to the stream connecting Lawn avenue and Flushing creek, thence along said stream to its junction with Flushing creek, thence along Flushing creek to Strong causeway, the place of beginning.

Fourth. The fourth senate district shall consist of that part of the county of Kings, within and bounded by a line, beginning at the intersection of Sutter avenue and Williams avenue and running thence along Williams avenue to Blake avenue, to Pennsylvania avenue, to Hegeman avenue, to New Jersey avenue, to Vienna avenue, to Pennsylvania avenue, to the waters

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to Lorimer street, to Broadway, to Walton street, to
 Tiner street, to Harrison avenue, to Flushing avenue,
 14th avenue, to Hamling avenue, to Stanhope street,
 of Kings and Queens counties, thence along said house
 creek, thence northerly, westerly and southerly, thence
 down creek and the East river to the place of beginning.
 The eleventh senate district shall consist of that part
 of the city of New York within and bounded by a line, beginning at the foot
 of the East river and Buttermilk channel and running thence along
 Robinson street, to Warren street, to Clinton street, to
 1st street, to Dean street, to Nassau place, to Bergen
 street, to Atlantic avenue, to Bond street, to Fulton street, to
 14th avenue, to Washington park, to Cumberland street,
 to Spenser street, to Willoughby avenue, to Nostrand
 avenue, to Harrison avenue, to Lorimer street, to Third
 street, to Broadway, to Lorimer street, to First street,
 to North Twelfth street, to Berry street, to North Eleventh
 street, to the East river, thence southerly through the water
 of the East river, thence southerly through the water
 of the Buttermilk channel to the place of beginning.

The twelfth senate district shall consist of that part
 of the city of New York within and bounded by a line, beginning at the
 foot of the East river and West Tenth street and running thence along
 the East river, to Greenwich street, to Charles street, to Horner
 street, to West Fourth street, to West Washington street,
 to West Third street, to Broadway, to East Fourth
 street, to East Houston street, to Ludlow street, to Brown
 street, to Grand street, to Gouverneur street, to Cherry

Fifteenth. The fifteenth senate district shall consist of that part of the county of New York within and bounded by a line, beginning at the junction of the Hudson river and West One Hundred and Sixteenth street and running thence along West One Hundred and Sixteenth street to Broadway, to West One Hundred and Fourteenth street, to Amsterdam avenue, to West One Hundred and Sixteenth street, to Columbus avenue (or Morningside avenue east), to West One Hundred and Nineteenth street, to Saint Nicholas avenue, to West One Hundred and Eighteenth street, to Seventh avenue, to West One Hundred and Tenth street, to Eighth avenue (or Central park west), to West Sixty-second street, to Broadway, to Eighth avenue (or Central park west), to West Fifty-eighth street, to Ninth avenue, to Columbus avenue, to West Sixty-third street, to the Hudson river, thence through the waters of the Hudson river to the place of beginning.

Sixteenth. The sixteenth senate district shall consist of that part of the county of New York within and bounded by a line, beginning at the junction of the East river and East Eighty-first street and running thence along East Eighty-first street to East End avenue, to East Eighty-fourth street, to Avenue A, to East Seventy-seventh street, to Third avenue, to East Seventy-sixth street, to Lexington avenue, to East Seventy-fourth street, to Third avenue, to East Fifty-second street, to Lexington avenue, to East Fortieth street, to Third avenue, to East Thirty-fourth street, to Lexington avenue, to East Twenty-second street, to Third avenue, to East Sixteenth street, to First avenue, to East Seventeenth street, to Avenue B, to East Eighteenth street, to the East river, thence through the waters of the East river to the place of beginning and including Blackwell's island.

Seventeenth. The seventeenth senate district shall consist of that part of the county of New York within and bounded by a line, beginning at the intersection of Seventh ave. and West One Hundred and Eighteenth st. and running thence along West One Hundred and Eighteenth street to East One Hundred and Eighteenth street, to Park avenue, to East Ninety-sixth street, to Lexington avenue, to East Seventy-ninth street, to Third avenue, to East Seventy-sixth street, to Lexington avenue, to East Seventy-fourth street, to Third avenue, to East Fifty-second street, to Lexington avenue, to East Fortieth street, to Third avenue, to East Thirty-fourth street, to Lexington avenue, to East Twenty-second street, to Third avenue, to East Fifteenth street, to Irving place, to East Fourteenth street, to Fourth avenue, to Astor place, to Broadway, to West Third street, to Sixth avenue, to West Washington place, to West Fourth street, to Christopher street, to Bleecker street, to West Eleventh street, to West Fourth street, to Bank street, to Bleecker street, to Eighth avenue, to West Fourteenth street, to Seventh avenue, to West Thirty-seventh street, to Eighth avenue, to West Forty-third street, to Seventh avenue, to West Forty-fourth street, to Eighth avenue, to West Fifty-seventh street, to Ninth avenue, to West Fifty-eighth street, to Eighth avenue (or Central park west), to Broadway, to West Sixty-second street, to Eighth avenue (or Central park west), to West One Hundred and Tenth street, to Seventh avenue, and thence along Seventh avenue to the place of beginning.

Eighteenth. The eighteenth senate district shall consist of that part of the county of New York within and bounded by a line, beginning at the junction of the East river and East One Hundred and Fifteenth street and running thence along East One Hundred and Fifteenth street to Second avenue, to East One Hundred and Eighteenth street, to Third avenue, to East One

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by line of the city of Yonkers, thence northerly to the place of beginning.

The twenty-sixth senate district shall consist of the county of Westchester comprising the towns of Greenburgh, Cortland; together with all the remainder of the county hereinbefore described as a part of the twenty-fifth district.

The twenty-seventh senate district shall consist of the counties of Schoharie and Sullivan.

The twenty-eighth senate district shall consist of the counties of Ulster, Dutchess and Columbia.

The twenty-ninth senate district shall consist of the counties of Otsego, Greene and Delaware.

The thirtieth senate district shall consist of the counties of Schoharie and Sullivan.

The thirty-first senate district shall consist of the counties of Schoharie and Sullivan.

The thirty-second senate district shall consist of the counties of Schoharie and Schenectady.

The thirty-third senate district shall consist of the counties of Schoharie, Warren and Washington.

The thirty-fourth senate district shall consist of the counties of Schoharie, Lawrence and Franklin.

The thirty-fifth senate district shall consist of the counties of Schoharie, Hamilton and Fulton.

The thirty-sixth senate district shall consist of the counties of Schoharie and Hamilton.

The thirty-seventh senate district shall consist of the counties of Schoharie and Hamilton.

city of Rochester, constituted as shown on maps accompanying the report of the secretary of state of the enumeration of inhabitants nineteen hundred and fifteen.

Forty-sixth. The forty-sixth senate district shall consist of that part of the county of Monroe comprising the towns of Greece, Gates, Chili, Wheatland, Clarkson, Riga, Sweden, Ogden, Parma, and Hamlin; together with the first, second, third, fifth, ninth, tenth, eleventh, the first election district and that part of the second election district bounded by the Erie canal, Clinton avenue south, Byron street and South avenue, of the thirteenth, the fourteenth, fifteenth, that part of the first election district of the seventeenth, bounded by Avenue A, Gladys street, Nillson street and Harris street, the nineteenth, twentieth and twenty-third wards of the city of Rochester constituted as shown on maps accompanying the report of the secretary of state of the enumeration of inhabitants nineteen hundred and fifteen.

Forty-seventh. The forty-seventh senate district shall consist of the counties of Orleans and Niagara.

Forty-eighth. The forty-eighth senate district shall consist of that part of the county of Erie within and bounded by a line beginning at the intersection of the northerly boundary line of the city of Buffalo and Delaware avenue and running thence along Delaware avenue to Tacoma avenue, to Tennyson avenue, to Hertel avenue, to Delaware avenue, to Scajaquada creek, thence through the waters of Scajaquada creek to Main street, thence along Main street to Riley street, to Michigan avenue, to Northampton street, to Jefferson street, to Best street, to Herman street, to High street, to Fox street, to Genesee street, to Sherman street, to Broadway, to Madison street, to William street, to Union street, to East Eagle street, to Main street, to Exchange street, to Washington street, to New York Central railroad, to Main street, to the Buffalo river, thence through the waters of the Buffalo river to Lake Erie, thence through the waters of Lake Erie and the Niagara river, along the international boundary line, to the northerly boundary line of the city of Buffalo, thence along said boundary line to the place of beginning.

Forty-ninth. The forty-ninth senate district shall consist of that part of the county of Erie within and bounded by a line, beginning at the intersection of the easterly boundary line of the city of Buffalo and East Delavan avenue and running thence along East Delavan avenue, to Northumberland avenue, to East Ferry street, to Montana avenue, to Genesee street, to New York Central belt line, to Walden avenue, to Herman street, to High street, to Fox street, to Genesee street, to Sherman street, to Broadway, to Madison street, to Williams street, to Union street, to East Eagle street, to Main street, to Exchange street, to Washington street, to New York Central railroad, to Main street, to the Buffalo river, thence through the waters of the Buffalo river to Lake Erie, thence southerly through the waters of Lake Erie to the southerly boundary line of the city of Buffalo, thence along the said southerly and easterly boundary lines of the city of Buffalo to the place of beginning.

Fiftieth. The fiftieth senate district shall consist of that part of the county of Erie comprising the towns of Alden, Amherst, Aurora, Boston, Brant, Cheektowaga, Clarence, Colden, Collins, Concord, East Hamburg, Eden, Elma, Evans, Grand Island, Hamburg, Holland, Lancaster, Marilla, Newstead, North Collins, Sardinia, Tonawanda, Wales and West Seneca; together with

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Tonawanda, Lackawanna and that part of the city bounded by a line, beginning at the intersection of the city of Buffalo and Delaware avenue and running west on Delaware avenue to Tacoma avenue, to Tennyson avenue, to Delaware avenue, to Scatqua creek, thence through Scatqua creek to Main street, thence along Main street to Buffalo avenue, to Northampton street, to Jefferson street, to Ten avenue, to New York Central belt line, to Genesee avenue, to East Ferry street, to Northumberland street, to the easterly boundary line of the city of Buffalo, thence the said easterly and northerly lines of the city of Buffalo to beginning

The fifty-first senate district shall consist of the city of Buffalo and Chautauqua.

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ent of members of assembly. The number of members of the assembly hereafter to be chosen in the several counties shall be as follows:

- County of Albany, three.
- County of Allegany, one.
- County of Bronx, eight.
- County of Broome, two.
- County of Cattaraugus, one.
- County of Cayuga, one.
- County of Chautauqua, two.
- County of Chemung, one.



ASSEMBLY DISTRICTS.

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In the county of Ontario, one.
In the county of Orange, two.
In the county of Orleans, one.
In the county of Oswego, one.
In the county of Otsego, one.
In the county of Putnam, one.
In the county of Queens, six.
In the county of Rensselaer, two.
In the county of Richmond, two.
In the county of Rockland, one.
In the county of Saint Lawrence, two.
In the county of Saratoga, one.
In the county of Schenectady, two.
In the county of Schoharie, one.
In the county of Schuyler, one.
In the county of Seneca, one.
In the county of Steuben, two.
In the county of Suffolk, two.
In the county of Sullivan, one.
In the county of Tioga, one.
In the county of Tompkins, one.
In the county of Ulster, one.
In the county of Warren, one.
In the county of Washington, one.
In the county of Wayne, one.
In the county of Westchester, five.
In the county of Wyoming, one.
In the county of Yates, one.

State, Law, § 121.

Assembly districts. The supervisors of each of the aforesaid counties, which are by the provisions of this article entitled to more than one member of assembly, shall meet on the second Tuesday in June, nineteen hundred and seventeen, at the place where their last meetings were held; they shall organize by appointing one of their number as chairman, and another as secretary, and shall proceed to divide their respective counties into so many assembly districts as they are entitled respectively to members of assembly under this article; and shall thereupon make their certificates respectively, containing a description of each assembly district, specifying the number of each district and the population thereof according to the last state enumeration.

In any city comprising one or more counties, in which there is no board of supervisors, the members of the board of aldermen of said city shall constitute the board for the division of the counties in such city into assembly districts, and they shall meet at the same time and in the same manner organize, make such divisions in said counties and certificates, as boards of supervisors in other counties are required to do.

The said certificate shall be signed by a majority of such supervisors respectively, except in cities in which there is no board of supervisors and in such cities by a majority of the aldermen of said cities, and they shall cause duplicate certificates to be filed in the office of the secretary of state and the office of the clerk of their respective counties.

State Law, § 122.

ENUMERATION OF THE INHABITANTS OF THE STATE.

Enumeration shall be taken.

Enumeration of the inhabitants of this state shall be taken on the first of May and June in the year nineteen hundred and fifteen and every tenth year thereafter.

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Powers and duties of the secretary of state.

Enumeration herein authorized and required shall be taken under the direction and supervision of the secretary of state. He may employ such clerk in his office to take charge of such enumeration, and without examination appoint temporarily such persons as in his opinion are actually necessary to perform the duties imposed upon him by this article, and remove or fix their compensation provided that the total amount so expended shall not exceed the amount appropriated and available for such purpose.

4. Returns; tabulations. Prescribe the contents of returns and direct the manner and time of making and transmitting such returns by supervisors and enumerators, and cause such returns to be tabulated and arranged so as to show the number of inhabitants exclusive of aliens, the number of aliens, and the total number of inhabitants in each village, town, county, city and borough of a city, of the state. He may, if he deems it advisable, cause such tabulation to be made of the inhabitants of other political subdivisions, or districts of the state and may provide for an enumeration of the inhabitants thereof for such purpose. In any city in a county containing more than one senate district, or which, in the opinion of the secretary of state, may be entitled to more than one senate district under a reapportionment, such tabulation shall show the result of such enumeration in such city, by blocks inclosed by streets or public ways. He may, in his discretion, direct the chief enumeration supervisors and enumeration supervisors to tabulate and arrange the returns submitted to them by the enumerators of their districts. He may also, if he deems it advisable, contract with any person for the tabulation of such returns.

5. Report of enumeration. Prepare and report to the legislature, on or before the fifteenth day of January next following such enumeration, a full and complete report of the result of such enumeration, tabulated and arranged as above provided.

6. Filing of report. Transmit, within ten days after the final completion of the enumeration, to the county clerk of each county to which such returns relate a certified copy of the portions of such report which relate to such county to be filed and become a record of such county clerk's office.

State Law, § 141, as amended by L. 1915, ch. 155, in effect March 31, 1915.

Appointment of chief enumeration supervisors and enumeration supervisors.

The secretary of state shall appoint without examination, during the month of April, nineteen hundred and fifteen, and in such month in every tenth year thereafter, an enumeration supervisor for each assembly district of the state. He shall also appoint without examination, at such time one chief enumeration supervisor for the counties of New York and the Bronx, one for the counties of Kings and Queens, and one for the county of Erie. Each person so appointed shall be a citizen of the United States, a qualified voter of the district for which he is appointed and shall have resided in such district for a period of at least one year previous to his appointment. Such chief enumeration supervisor and enumeration supervisor shall take office immediately upon their appointment and shall hold office until the duties required of them by this act shall have been performed, unless sooner removed by the secretary of state. The secretary of state shall issue and deliver to such chief enumeration supervisor and enumeration supervisor a certificate of appointment, which shall be signed by him, and shall state and accurately describe the boundaries of the assembly district to which such supervisor is assigned. Such chief enumeration supervisor and enumeration supervisor shall each immediately upon receiving such certificate and before entering upon the duties of his office take and subscribe and file in the office of the secretary of state an oath

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the form to be prescribed by the secretary of state, to perform the duties of his office to the best of his ability to the secretary of state all inaccurate enumerations caused by the incompetency of enumerators in his supervision will not intentionally increase, suppress or diminish the number of persons enumerated by the enumerators under his supervision, nor will he intentionally or illegally alter the enumeration of the inhabitants of the county at the return and tabulation thereof made as provided in this act. Enumeration supervisors appointed as herein provided shall be held responsible for the proper enumeration of the inhabitants of the county in which they were appointed, and shall possess the powers and perform the duties prescribed by the secretary of state.

§ 142, as amended by L. 1915, ch. 156, in effect March 1, 1916.

Compensation of enumeration supervisors.

Each enumeration supervisor shall be paid a compensation of five hundred dollars, and the chief enumeration supervisor for the counties of New York and such chief for the counties of Kings and Queens shall be paid a compensation of two thousand and five hundred dollars, and the enumeration supervisor for the county of Erie shall be paid a compensation of one thousand and five hundred dollars. Such compensation shall be paid in three equal installments by the state treasurer out of appropriations made therefor or by the comptroller drawn upon the requisition of the secretary of state. Payment of such compensation shall not be paid until the duties of such supervisor, under the provisions of this act, shall have been performed by such supervisor, under the provisions of this act, and the secretary of state shall have been notified by the secretary of state.

4. Distribute among the enumerators in his district blanks, schedules and returns, together with such other cards, instructions and other material as may be forwarded to him by the secretary of state for such purpose.

5. Receive and safely keep the returns of the enumerators and transmit them to the secretary of state at such times and in such manner as may be required by him, and tabulate and arrange such returns if required to do so by the secretary of state.

6. Have power to take affidavits of, and administer oaths to, enumerators and all other persons, pertaining to any matter coming within his jurisdiction or in any way relating to the enumeration herein authorized.

7. Perform such other duties relative to such enumeration as may be prescribed by the regulations of the secretary of state, or as may be required of him by the said secretary of state.

8. Examine the enumerators appointed for the several enumeration districts in his supervisory district for the purpose of ascertaining their qualifications to perform the duties required of them and investigate as to the character of such enumerators and require each of them before beginning his work to present to him at least two certificates of good moral character, signed by reputable residents of the supervisory district in which such enumerator is to serve; he shall report the result of such examination and investigation to the secretary of state.

State Law, § 144, as amended by L. 1915, ch. 156, in effect March 31, 1915.

Enumeration districts.

The secretary of state, in the month of April, nineteen hundred and fifteen, and during such month in every tenth year thereafter, shall cause each assembly district to be divided into enumeration districts consisting of one or more election districts as such districts were constituted on the day of the general election in the preceding year. But whenever in any city there is a county having more than one senate district, or which in the opinion of the secretary of state may under a new apportionment be entitled to more than one senate district, the enumeration districts in such city shall consist of blocks, inclosed by streets or public ways.

The county clerk, board of elections, commissioner of elections or other officer whose duty it is under the election law to provide maps or furnish certificates showing the boundaries of election districts or perform other duties relative to such districts, shall, upon the request of the secretary of state, furnish and transmit such maps and certificates.

State Law, § 145, as amended by L. 1915, ch. 156, in effect March 31, 1915.

Appointment and qualifications of enumerators.

The secretary of state shall, in the month of April, nineteen hundred and fifteen, and during such month in every tenth year thereafter, appoint and may at pleasure remove an enumerator for each enumeration district created as provided in this article. Such appointment may be made by the secretary

POLITICAL DIVISIONS OF STATE, ETC.

polleratum, without examination, from lists of persons qualified. Each person appointed as an enumerator shall be a citizen of the United States and of the state of New York and shall reside in the district for which he is appointed for at least one year prior to his appointment. If no person qualified to serve as an enumerator resides in such district, the board of supervisors may appoint a person, who has shown the qualifications for such position as above provided, to act as an enumerator in such district.

The board of state shall issue to each enumerator a certificate of appointment in which certificate the district assigned to him shall be designated. He shall transmit with such certificate a list of the names of the persons residing within the district within which the duties of the enumerator shall be performed. Such certificate shall be delivered to the person appointed as enumerator, and he shall be responsible for the performance of the duties of the act. Such certificates together with the boundaries of enumeration districts may be delivered to the supervisor who shall deliver the same to the enumerator in the assembly district for which such supervisor is appointed.

§ 146, as amended by L. 1915, ch. 155, in effect March 1, 1916.

of enumerators.

The compensation of enumerators shall be two dollars per day for each day necessarily employed in making the enumeration and in preparing the returns, and one cent for each person enumerated.

Interpreters shall be fixed by the secretary of state in advance, and shall not exceed three dollars per day for each day actually and necessarily employed.

State Law, § 148, as amended by L. 1915, ch. 155, in effect March 31, 1915.

Oaths of enumerators and interpreters.

Every enumerator or interpreter before entering upon his duties under the provisions of this article shall take and subscribe the following oath or affirmation before any officer authorized to administer oaths, who shall certify such attestation without charging any fee therefor: being duly sworn, says that he is more than twenty-one years of age; that he is a citizen of the United States and of the state of New York; that he is now and has been a resident of enumeration district (as the case may be; or if appointed outside of the block or district, give residence) of the in the county of state of New York for one year last past; that he has been duly appointed as the of said district for the purpose of taking an enumeration of the inhabitants of said district under the provisions of the law providing for the taking of a state enumeration of the state of New York during the year; and that he will perform the duties of to the best of his ability; that the list of inhabitants so taken and enumerated by him together with their residence by street or avenue and the number thereof shall in all respects be a true and correct list of all the inhabitants of said election district or block; that he will in all cases, to the best of his ability correctly state in such list, which of the inhabitants, if any, set forth therein are aliens; that he will not intentionally increase, suppress or diminish the number of inhabitants of such election district numerically or otherwise for any purpose whatever in taking, making and completing such enumeration.

State Law, § 149, as amended by L. 1915, ch. 155, in effect March 31, 1915.

Failure of enumeration supervisors and enumerators to perform duties.

In the case of the inability or neglect of any chief enumeration supervisor, enumeration supervisor or enumerator appointed under or by virtue of this article to perform his duties as required, the secretary of state shall have full power, and it shall be his duty forthwith, to remove such enumeration supervisor or enumerator and in the manner aforesaid, to appoint an enumeration supervisor or enumerator to perform such service, and the secretary of state shall have full authority to confirm the accuracy of the enumeration of any district by such comparisons and investigations as a true enumeration demands.

State Law, § 150, as amended by L. 1915, ch. 155, in effect March 31, 1915.

Removal of supervisors and enumerators and filling vacancies; amendment of enumerations.

The secretary of state may remove any chief enumeration supervisor, enumeration supervisor or enumerator and fill the vacancy thus caused

or otherwise occurring whenever it shall appear that any portion of the enumeration provided for in this article has been negligently or improperly taken, and is by reason thereof incomplete or erroneous, and such enumerator shall forfeit all claim to compensation. Such vacancy shall be filled by the secretary of state in the same manner as an original appointment is made. The secretary of state may also cause such incomplete, erroneous, inaccurate and unsatisfactory enumeration to be amended or made anew under such methods as may, in his discretion, be practicable.

State Law, § 151, as amended by L. 1915, ch. 155, in effect March 31, 1916.

Enumeration of Indians.

It shall be the duty of the secretary of state to appoint suitable persons to take the enumeration of the Indians residing on the several reservations in this state, who shall, in respect to such reservations, perform all the duties required of an enumerator by this article, and as the secretary of state in his instructions shall prescribe, for which service they shall be paid as other enumerators are compensated.

State Law, § 152, as amended by L. 1915, ch. 155, in effect March 31, 1916.

Commencement of enumeration; how enumeration made.

On such day in the month of May or June, as the secretary of state shall direct, each enumeration supervisor shall cause the enumerator within his district to enumerate truly and accurately the inhabitants residing in the enumeration district for which he shall have been appointed, and to ascertain the facts and statistics required by the population schedule or return. It shall be the duty of each enumerator to visit personally each dwelling-house in his district and each family therein and each individual living out of a family in any place of abode, and by inquiry made of the head of each family or of a member or members thereof deemed credible and worthy of trust, or of such individual living out of a family, to obtain each and every item of information and all particulars required by this article and the regulations of the secretary of state as of such date in May or June as so directed by the secretary of state. And in case no person shall be found at the usual place of abode of such family or individual living out of a family competent to answer the inquiries made in compliance with the requirements of this article, it shall be lawful for the enumerator to obtain the required information from the family or families or person or persons living nearest to such place of abode. Every person whose usual place of abode shall be in any family on such date so prescribed by the secretary of state, shall be returned as of such family; and every inhabitant casually absent at the time of taking the enumeration shall be returned as belonging to that place in which he usually resides. Before the members of a family or inhabitants who are absent at the time of taking the enumeration are entered or returned as residents of the enumeration district, blank statements shall be forwarded to the head of such family or such inhabitant, at the place where such family or inhabitant is sojourning which

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shall be immediately returned to the enumerator properly filled out and signed by the head of such family or by such inhabitant. Such statements shall give the names of the members of such families or inhabitants, the place where they are sojourning, when they are expected to return, and shall state whether or not they are residents of the enumeration district wherein their place of abode is situated and whether or not they are citizens of the state. If such statement is not returned to the enumerator as above provided within a reasonable time, the names of the members of such family or inhabitants who are absent, shall not be returned by the enumerator as residents of his district, unless an affidavit of some person known to the enumerator to be possessed of sufficient knowledge as to the said absent family or inhabitants be presented to such enumerator containing satisfactory information showing that the members of such absent family or such absent inhabitants are residents of such district and citizens of the state. If the place of abode of such absent family or inhabitant is in a building, containing two or more apartments occupied by separate families, the enumerator shall inquire of the owner, agent or manager of such building as to the residence, citizenship or alienage of such absent family or inhabitant. Such statements and affidavits shall be transmitted by the enumerator at the time of making his return to the enumeration supervisor. The return of the enumerator shall state the place where such absent inhabitant is sojourning, when he is expected to return and the occasion for his absence.

It shall be the duty of each enumerator to complete the enumeration and all his official work and forward before July first, or on such earlier date as the secretary of state may direct, in duplicate by express or as otherwise directed carefully inclosed, so as to protect the returns transmitted, the original schedules or returns, duly certified to the enumeration supervisor of the assembly district in which his district is located stating the number of pages of which said returns consist. In making such enumeration he shall for the purpose of identification ascertain and include the sex, age, color, nativity, citizenship or alienage, and the occupation of each inhabitant, with his residence by street and number, if any, or if there is no street and number, then such description as shall identify the place of residence. Such enumerator shall specially ascertain and note as to the citizenship of all foreign born inhabitants, and if they are naturalized shall require them to exhibit their naturalization papers. The names of children of naturalized citizens and of aliens shall be specially noted and the schedules, blanks and cards shall be so prepared as to permit facts as to citizenship and alienage to be carefully and clearly noted. In any city, in a county having more than one senate district, or which in the opinion of the secretary of state may under a new apportionment be entitled to more than one senate district, the enumeration shall be taken by blocks inclosed by streets or public ways, as well as by street and number. The enumeration supervisor shall at all times advise and instruct such enumerators as to such enumeration and shall examine all returns, schedules and cards transmitted to him by the enumerators under his supervision, and in the event of discrepancies or omissions being discovered in said returns, schedules and cards he shall use all diligence in causing the same to

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in case the district assigned to any enumerator shall be of any incorporated borough, city or village and included within the limits of such incorporated borough, it shall be the duty of the enumerator of such borough, city or village to carefully distinguish and separate upon the population schedule the inhabitants of all or any part of such borough, city or village from the inhabitants of the district assigned to such enumerator from territory not included therein.

153, as amended by L. 1915, ch. 165, in effect March 1, 1916.

Withholding information or giving false information. Any person, being the head of a family or member thereof of any district, who shall refuse to give to the duly appointed enumerator of the district wherein the person resides the information required to secure under the provisions of this article relative to any of the particulars which such enumerator is required to secure under the provisions of this article, or who shall wilfully give false information concerning the same, shall be guilty of a misdemeanor, and shall be fined in a sum not exceeding one hundred and fifty dollars.

154, as amended by L. 1915, ch. 155, in effect March 1, 1916.

Enumeration supervisor, enumerator or interpreter who shall wilfully omit, suppress or falsify the number of inhabitants embraced within his district.

Any enumeration supervisor, enumerator or interpreter who shall wilfully omit, suppress or falsify the number of inhabitants embraced within his district shall be guilty of a misdemeanor, and shall be fined in a sum not exceeding one hundred and fifty dollars.

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Sheriffs and other officers to assist enumerators.

In all counties of this state the sheriff, mayor or police commissioner of the city, or other officers having the control and direction of the police or other peace officers, shall render, and cause the police or other peace officers to render assistance and aid to the enumeration supervisor and enumerators appointed under this article when so requested to do by the secretary of state or enumeration supervisor and upon like request shall cause police officers or other peace officers to accompany such enumerators to any house or houses, place or premises for the purpose of rendering such aid and assistance.

State Law, § 157, as amended by L. 1915, ch. 155, in effect March 31, 1915.

Certificate of secretary of state conclusive evidence.

A certificate under the hand and seal of the secretary of state as to the number of inhabitants of this state, or of any county, town, city or village, borough or district thereof, as shown by the completed and approved enumeration taken under the provisions of this article, shall be received as conclusive evidence of the fact by each and every court of this state.

State Law, § 158, as amended by L. 1915, ch. 155, in effect March 31, 1915.

JUDICIAL DISTRICTS.

State into judicial districts.

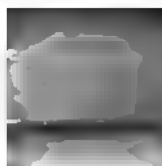
be hereby divided into nine judicial districts, pursuant to the first section of the sixth article of the constitution, to be arranged as follows:

judicial district shall consist of the county of New York, including therein, as a part thereof, all the territory purported to be annexed to the county of New York by chapter nine hundred and thirty-four of the laws of 1895;

judicial district shall consist of the counties of Richmond and Suffolk;

judicial district shall consist of the counties of Columbia, Greene, Albany, Schoharie and Rensselaer;

judicial district shall consist of the counties of Warren, Essex, Franklin, Saint Lawrence, Clinton, Madison



**AN ACT TO PROVIDE A PROCEDURE FOR THE PROMPT REVIEW
OF AN APPORTIONMENT BY THE LEGISLATURE OR OTHER
BODY.**

(Laws of 1911, chapter 773, in effect July 25, 1911.)

Section 1. An apportionment by the legislature shall be subject to review by the supreme court at the suit of any citizen, upon the petition of any citizen to the supreme court where any such petitioner resides and upon such service thereof upon the attorney-general, the president of the senate, the speaker of the assembly and the governor, as a justice of the supreme court may direct.

§ 2. An apportionment by any other body shall be subject to review by the supreme court at the suit of any citizen, upon the petition of any citizen to the supreme court where any such petitioner resides, and upon such service thereof upon the presiding officer of such other body, or upon such members thereof, and upon the attorney-general, as a justice of the supreme court may direct.

§ 3. Any such petition shall pray that the constitutionality of the apportionment be reviewed, and for such other relief as may be proper. The court may enter an order directing any officer of the state charged with the duty of issuing notices of election to issue notices of any ensuing election in accordance with its determination.

§ 4. In any proceeding heretofore begun, in the manner provided in the foregoing sections hereof, an appeal may, within ten days after the passage of this act, be taken to the appellate division of the supreme court from any determination heretofore made as to the constitutionality of any apportionment by the supreme court, and on any appeal to the appellate division in such proceeding the appellate division shall have jurisdiction to review the constitutionality of the apportionment in issue, and to issue an order in accordance with section three hereof; and from the determination of the appellate division on such appeal an appeal may be taken to the court of appeals, and on any appeal to the court of appeals in such proceeding the court of appeals shall have jurisdiction to review the constitutionality of the apportionment in issue and to issue an order in accordance with section three hereof.

§ 5. No limitation of the time for commencing an action shall affect any proceeding hereinbefore mentioned, or any appeal in any existing action or proceeding in which the validity of an apportionment is or may be in issue, if commenced within the period during which such apportionment is in force; and nothing in this act shall impair any existing remedy by which the validity of an apportionment may be determined.

§ 6. This act shall take effect immediately.





PART 5.

PROVISIONS OF PENAL LAW, ETC.,

RELATING TO

Crimes Against Elective Franchise



PENAL LAW*

PROVISIONS OF PENAL LAW,* ETC.,

RECEIVED

CRIMES AGAINST ELECTIVE FRANCHISE

Definitions.

The words "election" or "town meeting," as used in any of the sections of this article excepting section seven hundred and fifty-one, shall be deemed to apply to and include all general and special elections, municipal elections, town meetings, and primary elections and conventions, and proceedings for the nomination of candidates by petition under the election law. The word "candidate," as used in said sections, shall be deemed to apply to candidates for nomination at a primary election or convention, and candidates for any office to be voted for under the election law, as well as candidates for nomination by petition under the election law.

Penal Law, § 750, as amended by L. 1910, ch. 430, in effect June 8, 1910.

Misdemeanors at, or in connection with, political caucuses, primary elections, enrollment in political parties, committees, and conventions.

Any person who:

1. At a political caucus, or at a primary election of a party, wilfully votes, or attempts to vote, without being entitled to do so, or votes, or attempts to vote on any other name than his own, or on the same day more than once on his own name; or,

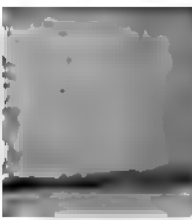
2. Votes, or offers to vote, at a political caucus, or primary election of a party, having voted at the political caucus or primary election of any other political party on the same day, or being at the time enrolled in a party other than the party at whose primary he votes or offers to vote; or, who causes his name to be placed upon the rolls of a party organization of one party while his name is by his consent or procurement upon the rolls of a party organization of another party; or,

3. At a political caucus, or at a primary election, for the purpose of affecting the result thereof, votes or attempts to vote two or more ballots, or adds, or attempts to add, any ballot to those lawfully cast, by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted, or who adds to or mixes with, or attempts to add to or mix with, the ballots lawfully cast, another ballot or other ballots before the votes have been counted or canvassed, or while the votes are being counted or canvassed; or at any time abstracts any ballots lawfully cast, with intent to change the result of such election or to change the count thereat in favor of or against any person voted for at such election, or to prevent the ballots

*For annotations to these provisions, see Cook's Annotated Penal Law and Code of Criminal Procedure.

PENAL LAW.

used as evidence; or carries away, destroys, loses, mutilates, or attempts to carry away, destroy or mutilate, any tally lists, ballots ballot boxes, or of return, or any official documents provided otherwise by law, for the purpose of affecting or such election, or of destroying evidence, or in any officers holding any primary election or conduct held thereat or with voters lawfully exercising their right of voting at such primary election, or, pose of securing enrollment as a member of a political of being allowed to vote at a primary election of party, makes and deposits or files or makes or of primary inspectors, or with any public officer of party affiliation or willful v makes a false doc by an enrollment blank or otherwise or falsely an asked him by the board of primary inspectors, or tors, or by a member thereof, or knowingly, on the interval between any such day and the next m, reveals or discloses the names or number of the rty, or makes, publishes, or circulates a list of such, or does or permits any act by which the name of an elector has enrolled, or the number of electors y be disclosed, or, y or wrongfully does any act tending to affect the political caucus or of any primary election or conv attempts to induce any officer, teller, canvasser, inspector, election inspector, custodian of primary



the polling place before the close of the polls, or refuses to receive ballots intended for the electors of the district, or refuses to deliver to any elector ballots intended for the electors of the district which have been delivered to the board of inspectors, or permits electioneering within the polling place or within one hundred feet therefrom, or fails to keep order within the polling place, or permits any person other than the inspectors to accompany an elector into a voting booth, or enters the voting booth with any elector, except one entitled to receive assistance in the preparation of his ballot, or permits any person other than a voter, who has not voted, or watcher to come within the guard rail or removes or permits another to remove any mark placed upon a ballot for its identification; or,

11. Being an officer, custodian of primary records, clerk or employee of or in the office of a custodian of primary records, election inspector, primary inspector, or poll clerk, knowingly puts opposite the name of an elector in an enrollment book any enrollment number other than the number opposite such name on the registration books of such district, or knowingly delivers to or receives from any elector on any day of registration an enrollment blank or envelope on which is any other enrollment number than that so opposite his name on such books of registration, or knowingly transcribes from an enrollment blank to the enrollment books any refusal to enroll or enrollment not indicated on the enrollment blank of the elector of such district whose enrollment number appears on the same, or refuses or wilfully neglects to transcribe from any enrollment blank to the proper enrollment books any refusal to enroll or enrollment indicated on the enrollment blank of such an elector, enrolls or attempts to enroll as a member of a political party, upon any of the enrollment books, any person not qualified to enroll as such, or fraudulently enters thereupon the name of any person who has not enrolled as a member of any political party, or refuses or wilfully neglects to enroll upon any of the enrollment books the name of any qualified person who has demanded to be enrolled as a member of a political party, or at any time strikes from any of the enrollment books the name of any person duly enrolled, or at any time adds to any of the enrollment books the name of any person not qualified to be enrolled as a member of a political party, or the name of any person who in fact has not enrolled as such; or makes marks upon, mutilates, carries away, conceals, alters, or destroys any enrollment blank or enrollment envelope used or deposited by an elector on a day of registration for the purpose of enrolling or refusing to enroll himself as a member of a political party; or mutilates, carries away, conceals, alters, or destroys, any statement or declaration made by a qualified voter for the purpose of enrolling as a member of a party; or, prior to the close of the last meeting for registration in any year, mutilates, carries away, conceals, alters, or destroys any enrollment blanks or enrollment envelopes not then delivered to electors; or,

12. Being an officer, teller, canvassers, election inspector, primary inspector, custodian of primary records, clerk or employee of or in the office of a custodian of primary records, or any officer of a political committee or a convention, wilfully omits, refuses or neglects to do any act required by the election law or otherwise by law, or violates any of the provisions of the election law, or makes or attempts to make any false canvass of the ballots cast at a political caucus, primary election, or convention, or a false statement of the result of a canvass of the ballots cast thereat; or,

13. Being a custodian of primary records, or an officer of a political com-

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convention, who is charged with, or assumes, the preliminary roll of any convention, wilfully includes of any person not certified to be elected thereto in accordance with the provisions of law, or who wilfully omits from such roll the name of any person so certified to be a delegate to such convention, is guilty of a misdemeanor.

§ 751.

Registration.

Who:

or attempts to register as an elector in more than one election, or more than once in the same election;

or attempts to register as an elector knowing that he is not an elector in the district at the election for which such registration is made;

or attempts to register as an elector under any other name than his own;

or gives a false residence within the election district as an elector; or,

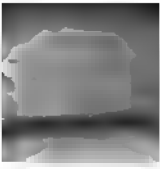
or permits, aids, assists, abets, procures, commands or induces any such act,

is guilty of a felony, punishable by imprisonment in a state prison for not more than five years.

§ 752, as amended by L. 1909, ch. 308.

Of registry officers.

Any clerk of a registry board who wilfully violates a



1. Uses or threatens or attempts to use his official power or authority, in any manner, directly or indirectly, in aid of or against any political party, organization, association or society, or to control, affect, influence, reward or punish, the political adherence, affiliation, action, expression or opinion of any citizen; or,

2. Appoints, promotes, transfers, retires or punishes an officer or member of the police force, or asks for or aids in the promotion, transfer, retirement or punishment of an officer or member of a police force, because of the party adherence or affiliation of such officer or member, or for or on the request, direct or indirect, of any political party, organization, association or society, or of any officer, member of committee or representative official or otherwise of any political party, organization, association or society; or,

3. Contributes any money, directly or indirectly to, or solicits, collects or receives any money for, any political fund, or joins or becomes a member of any political club, association, society or committee,

Is guilty of a misdemeanor.

Penal Law, §756.

Failure of house-dweller to answer inquiries.

Any person dwelling in a building in a city who wilfully refuses to truly answer any question or who shall give false answers to any questions asked by any elector of such city, between the first meeting of the boards of registry therein for any election and the closing of the polls at such election, relating to the residence and qualifications as a voter of any person dwelling in such building, or of any person who appears upon the list or registry of voters made by a board of registry as residing at such building, or who knowingly harbors or conceals any person who has falsely registered as a voter, or who shall rent any room or bed to any person to be used by such person for himself or any other person for the purpose of unlawfully registering or voting therefrom is guilty of a misdemeanor.

Penal Law, §767.

Removal, mutilation or destruction of election booths, supplies, poll-lists or cards of instruction.

Any person who:

1. During an election or town meeting, wilfully defaces or injures a voting booth or compartment, or wilfully removes or destroys any of the supplies or other conveniences placed in the voting booths or compartments in pursuance of law; or,

2. Before the closing of the polls, wilfully defaces or destroys any list of candidates to be voted for at such election or town meeting, posted in accordance with the election law; or,

3. During an election or town meeting, wilfully removes or defaces the cards for the instruction of voters, posted in accordance with the election law, Is guilty of a misdemeanor.

Penal Law, § 758.

Refusal to permit employees to attend election.

A person or corporation who refuses to an employee entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by

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or, or subjects such employee to a penalty or reduction of such privilege, is guilty of a misdemeanor.

§ 739

In relation to certificates of nomination and official ballots:

who makes or makes oath to, or fraudulently defaces or falsifies a certificate of nomination or any part thereof, or, receives for filing a certificate of nomination, knowing the same to be falsified, or, receives for filing a certificate of nomination which has been duly filed,

or, who fraudulently makes the official indorsement of any ballot, or, who fraudulently charges official ballots, destroys, conceals or suppresses the same,

is liable to imprisonment for not more than five years.

§ 740.

In relation to designation petitions.

Who induces, contributes or promises to pay, lend or contribute any money or valuable consideration to or for any voter, or to or for any person, or who induces such voter to sign a petition for the designation of a candidate for party nomination or for election to a party position at a primary election, or,

who offers or promises any office, place or employment or endeavor to procure any office, place or employment to or for any person in order to induce such voter to sign a petition for the designation of a candidate for party nomination or for election to a party position at a primary election, or,

who agrees or contracts for any money, gift, loan or other consideration for himself or for any other person to sign a petition for the designation of a candidate for party nomination or for election to a party position at a primary election,

Violation of election law by public officer.

A public officer who omits, refuses or neglects to perform any act required of him by the election law, or refuses to permit the doing of any act authorized thereby, is, if not otherwise provided by law, punishable by imprisonment for not more than three years, or by a fine of not more than three thousand dollars, or both.

Penal Law, § 763.

Misdemeanor in relation to elections.

Any person who:

1. Acts as an inspector of election, poll clerk or ballot clerk, without being able to read and write the English language, or without being otherwise qualified to hold such office; or,

2. Being an inspector of election, knowingly and willfully permits or suffers any person to vote who is not entitled to vote thereat; or,

3. Willfully and unlawfully obstructs, hinders or delays, or aids or assists in obstructing or delaying an elector on his way to a registration or polling place, or while he is attempting to register or vote; or, 1

4. Electioneers on election day within a polling place, or in any public street or in a building or room, unless such building or room has been maintained for such purpose for at least six months previous to said election day, or in any public manner within one hundred feet of a polling place; or displays any political poster or placard, except those lawfully provided, in or upon any building used for registration or election purposes during any day for registration or election, or,

5. Removes any official ballot from a polling place before the closing of the polls; or,

6. Unlawfully goes within the guard-rail of any polling place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election; or,

7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such voter while engaged in the preparation of his ballot, except as authorized by the election law; or,

8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by the election law, without openly protesting against and asking that such person be ejected; or,

9. Having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or, directly or indirectly, reveals to another the name of any candidate voted for by such voter, or anything occurring within such voting booth; or,

10. Shows his ballot after it is prepared for voting, to any person so as to reveal the contents, or solicits a voter to show the same; or,

11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him; or,

12. Places any mark upon, or does any other act in connection with, a ballot or paster ballot, with the intent that it may afterwards be identified as having been voted by any particular person; or,

13. Receives an official ballot from any person other than one of the ballot clerks having charge of the ballots; or,

14. Not being a ballot clerk, delivers an official ballot to a voter; or,

15. Not being an inspector of election, receives from any voter a ballot prepared for voting; or,

16. Fails to return to the ballot clerks, before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

17. Willfully defaces, injures, mutilates, destroys or secretes any voting machine which belongs to any municipality for use at elections, and any person who commits or attempts to commit a fraud in the use of any such voting machine during an election; or,

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disobeys any lawful command of the board of inspectors thereof,

a misdemeanor.

shall apply to general and special elections, municipal meetings, but nothing therein shall prevent any person delivering an unofficial sample ballot, or from receiving, or an unofficial ballot as authorized by the election law.

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5.

who

votes or offers or attempts to vote, at any election, or not qualified; or,

aids, assists, counsels or advises any person to go or come to or election district, for the purpose of voting at any election, knowing that such person is not qualified; or,

offers or attempts to vote at an election, or town meeting votes or offers or attempts to vote at an election, or any other name than his own; or votes or offers or attempts to vote at an election, or town meeting in an election district or from a place where he does not reside; or,

aids, assists, commands or advises another to vote or offer to vote at an election, or town meeting, knowing that such person is not qualified to vote thereat; or,

an inhabitant of another state or county, votes or offers to vote at an election, or town meeting in this state or permits, or aids, commands or advises another to commit or attempt to commit any of the foregoing offenses.



tribute any money or other valuable consideration, for any other purpose than the following matters and services at their reasonable, bona fide and customary value is guilty of a misdemeanor: Rent of halls and compensation or speakers, music and fireworks for public meetings, and expenses of advertising the same, together with the usual and minor expenses incident thereto; the preparation, printing and publication of posters, lithographs, banners, notices and literary material; the compensation of agents to supervise and prepare articles and advertisements in the newspapers, to examine questions of public interest bearing on the election, and report on the same; the pay of newspapers for advertisements, pictures, reading matter and additional circulation, the preparation and circulation of circular letters, pamphlets and literature bearing on the election; rent of offices and club rooms, compensation of such clerks and agents as shall be required to manage the necessary and reasonable business of the election and of attorneys at law for actual legal services rendered in connection with the election; the preparation of lists of voters; payment of necessary personal expenses by a candidate; the reasonable traveling expenses of the committeemen, agents, clerks and speakers, postage, express, telegrams and telephones; the expenses of preparing, circulating and filing a petition for nomination; compensation of poll workers or watchers, and food for the same, and election officers, hiring of carriages for conveying electors to the polls not exceeding three carriages for each election district in a city and not exceeding six carriages in any other election district; and the actual necessary railroad traveling expenses for transportation of voters to and from their places of residence for the purpose of voting.

Penal Law, § 767.

Giving consideration for franchise.

Any person who directly or indirectly, by himself or through any other person:

1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter or other person to vote or refrain from voting at any election, or to induce any voter or other person to vote or refrain from voting at such election for any particular person or persons, or for or against any particular proposition submitted to voters, or to induce such voter to come to the polls or remain away from the polls at such election, or to induce such voter or other person to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such voter or other person having voted or refrained from voting or having voted or refrained from voting for or against any particular person or for or against any proposition submitted to voters, or having come to the polls or remained away from the polls at such election, or having placed or caused to be placed or refrained from placing or causing to be placed his or any other name upon the registry of voters; or,

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter or other person to vote or refrain from voting at any election, or to induce any voter or other person to vote or refrain from voting at such election, for or against any particular person or for or against any proposition submitted

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Induces any voter or other person to place or refrain from placing or causing to be placed his or any other vote, or,

or promises any office, place, employment or valuable thing for any voter or other person to procure or aid in procuring a large or a small vote, plurality or majority at any election in any political division of the state, for a candidate or candidates at an election; or to cause a larger or smaller vote, plurality or majority to be cast or given for any candidate or candidates in any political division than in another; or,

gives, loans, promises, offers, procures or agrees to give, loan, promise, offer, procure or agree to procure or agree to procure to any person to induce such person to procure or aid in procuring the election of any person or the vote of any voter at an election,

or engages or promises or endeavors to procure, in consideration of any gift, loan, offer, promise, procurement, or agreement the vote of any voter, at such election, or,

or pays or causes to be paid any money or other valuable thing to the use of any other person with the intent that the same shall be used in bribery at any election, or knows or believes that any money or other valuable thing to any person shall be paid any money or other valuable thing to any person for the repayment of any money, wholly or in part repaid at such election.

Whoever is guilty of any of the foregoing offenses shall be guilty of a felony, punishable by imprisonment for not more than five years; and in addition forfeits any office to which he may have been elected or appointed with reference to which such offense was committed, and is disqualified from holding any public office under the constitution.

away from the polls at such election, or having registered or refrained from registering as a voter, or on account of having induced any other person to vote or refrain from voting for or against any particular person at such election, or for or against any proposition submitted to voters at such election, is guilty of a felony, and in addition shall be excluded from the right of suffrage for five years after such conviction.

The county clerk of the county in which such person is convicted shall transmit a certified copy of the record of conviction to the clerk of each county of the state, within ten days thereafter, which copy shall be filed in his office by each of said clerks.

Penal Law, § 769.

Testimony on prosecution.

A person offending against any section of this article is a competent witness against another person so offending and may be compelled to attend and testify on any trial, hearing or proceeding or investigation in the same manner as any other person. The testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person testifying. Any such person testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution.

Penal Law, § 770.

Bribery or intimidation of elector in military service of United States.

Any person who, directly or indirectly, by bribery, menace or other corrupt means, controls or attempts to control an elector of this state enlisted in the military service of the United States, in the exercise of his rights under the election law, or annoys, injures or punishes him for the manner in which he exercises such right, is guilty of a misdemeanor for which he may be tried at any future time when he may be found within this state; and upon conviction thereof shall thereafter be ineligible to any office therein.

Penal Law, § 771.

Duress and intimidation of voters.

Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance

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... prevents or otherwise interferes with the free exercise by any voter, or compels, induces or prevails upon any voter to refrain from giving his vote for or against any particular candidate; or,

... employer pays his employees the salary or wages due in accordance with which there is written or printed any political advertisement containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or at a general election puts or otherwise exhibits in the establishment where his employees are engaged in labor, any handbill or notice containing any threat, notice or information, that if any particular candidate is elected or defeated, work in his place or establishment will be discontinued, or in part, his establishment be closed up, or the wages reduced, or other threats, express or implied, intended to influence the political opinions or actions of his employees, shall be a misdemeanor, and if a corporation shall in addition

72.

promote or prevent election.

... persons who conspire to promote or prevent the election of any person to a public office by the use of any means which are punishable by imprisonment for not more than one year, or by a fine, besides such agreement be done to effect the object of the conspiracy of the parties to such conspiracy.

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the same shall be sent or presented to or collected of any such officer or employee; or,

8. Sends or presents any political assessment, subscription, or contribution to, or requests its payment of, any such officer or employee,
Is guilty of a misdemeanor.

Penal Law, § 774.

Corrupt use of position or authority.

Any person who:

1. While holding a public office, or being nominated or seeking a nomination or appointment therefor, corruptly uses or promises to use, directly or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person, shall be given or used in behalf of any candidate, officer or party or upon any other corrupt condition or consideration; or,

2. Being a public officer or employee of the state or a political subdivision having, or claiming to have, any authority or influence affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer or employee, or promises or threatens to use, any such authority or influence, directly or indirectly to affect the vote or political action of any such public officer or employee, or on account of the vote or political action of such officer or employee; or,

3. Makes, tenders or offers to procure, or cause any nomination or appointment for any public office or place, or accepts or requests any such nomination or appointment, upon the payment or contribution of any valuable consideration, or upon an understanding or promise thereof; or,

4. Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or a position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom,

Is punishable by imprisonment for not more than two years or by a fine of not more than three thousand dollars or both.

Penal Law, § 775.

Failure to file candidate's statement of expenses.

Every candidate who is voted for at any public election held within this state shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various person who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit subscribed and sworn to by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Candidates for offices to be filled

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of the entire state, or any division or district thereof, shall file their statements in the office of the assessors for town, village and city offices, excepting in small cities where the assessor is not a separate office, shall file their statements in the office of the town, village or city clerk, or in cities wherein there is no city clerk, in the common council of the city wherein the election occurs. In counties, their offices, including all officers in the city and county, shall file their statements in the office of the clerk of the county, unless the county has a commissioner of elections, in which case they shall file their statements in the office of such commissioner.

te for office who refuses or neglects to file a statement
section shall be guilty of a misdemeanor. A county
of elections with whom a candidate's statement of expen
in twenty days after the election, file a certified copy
ary of state.

776, as amended by L. 1910, ch. 439, in effect June 8, 14

andulent certificates in order to vote.

who knowingly and wilfully procures from any court, officer, a certificate of naturalization, which has been sealed in violation of the laws of the United States, with intent to enable himself or any other person to vote or of such person is not entitled by the laws of the State a citizen or to exercise the elective franchise, is guilty

fraudulent certificates to registry boards to use

Judicial candidates not to contribute.

No candidate for a judicial office shall, directly or indirectly, make any contribution of money or other thing of value, nor shall any contribution be solicited of him; but a candidate for a judicial office may make such legal expenditures other than contributions, as are authorized by section seven hundred and sixty-seven of this article.

Penal Law, § 780.

Limitation of amounts to be expended by candidates.

The total amount expended by a candidate for a public office, voted for at an election, by the qualified electors of the state or any political subdivision thereof, for any of the purposes specified in section seven hundred and sixty-seven of this chapter, for contributions to political committees, as that term is defined in section five hundred and forty of the election law, or for any purpose tending in any way, directly or indirectly, to promote, or aid in securing, his nomination and election shall not exceed the amount specified herein. By a candidate for governor, the sum of ten thousand dollars; by a candidate for any other elective state office, other than a judicial office, the sum of six thousand dollars; by a candidate for the office of representative in congress or presidential elector, the sum of four thousand dollars; by a candidate for the office of state senator, the sum of two thousand dollars; by a candidate for the office of member of assembly, the sum of one thousand dollars; by a candidate for any other public office to be voted for by the qualified electors of a county, city, town or village, or any part thereof, if the total number of votes cast therein for all candidates for the office of governor at the last preceding state election, shall be five thousand or less, the sum of five hundred dollars; if the total number of votes cast therein at such last preceding state election be in excess of five thousand, the sum of three dollars for each one hundred votes in excess of such number may be added to the amounts above specified. Any candidate for a public office who shall expend for the purposes above mentioned an amount in excess of the sum herein specified shall be guilty of a misdemeanor.

Penal Law, § 781.

Penalty.

Any person convicted of a misdemeanor under this article shall for a first offense be punished by imprisonment for not more than one year, or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment. Any person convicted of a misdemeanor under this article for a second or subsequent offense shall be guilty of a felony.

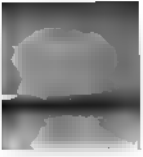
Penal Law, § 782.

Political contributions by corporations prohibited; penalty.

No corporation or joint-stock association doing business in this state, except a corporation or association organized or maintained for political purposes only, shall directly or indirectly pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for, or in aid of, any corporation, joint-stock or other association organized or maintained for

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ness, or for, or in aid of, any candidate for political position for such office, or for any political purpose who receives or obtains any money or property in violation of this section, who participates in, aids, abets or advises such violation, and any person who solicits or knowingly obtains money or property in violation of this section, shall be guilty of a misdemeanor and punishable by imprisonment in a county jail for not more than one year and a fine of not more than one thousand dollars. No person shall be excused from attending or producing any books, papers or other documents or papers in response to a subpoena issued by a judge or magistrate, upon any investigation, proceeding or process of any of the provisions of this section, upon the ground that the testimony or evidence, documentary or otherwise, of him may tend to convict him of a crime or to establish his liability for civil damages or forfeiture, but no person shall be prosecuted or punished by any penalty or forfeiture for or on account of any transaction or conduct concerning which he may so testify or produce evidence or documents, otherwise, and no testimony so given or produced shall be inadmissible against him upon any criminal investigation or proceeding. (California Labor Code, § 44.)



PART 6.

PUBLIC OFFICERS LAW.



PUBLIC OFFICERS LAW.

(L. 1909, ch. 51.)

- Article 1.** Short title; definitions (§§ 1, 2).
2. Appointment and qualification of public officers (§§ 3-15).
3. Creation and filling of vacancies (§§ 30-42).
4. Powers and duties of public officers (§§ 60-71).
5. Delivery of public books (§ 80).
6. Construction; laws repealed; when to take effect (§§ 90-92).

ARTICLE 1.

Short Title; Definitions.

- Section 1.** Short title.
2. Definitions.

§ 1. Short title.

This chapter shall be known as the "Public Officers Law."

§ 2. Definitions.

The term "state officer" includes every officer for whom all the electors of the state are entitled to vote, members of the legislature, justices of the supreme court, regents of the university, and every officer, appointed by one or more state officers, or by the legislature, and authorized to exercise his official functions throughout the entire state, or without limitation to any political subdivision of the state, except United States senators, members of congress, and electors for president and vice-president of the United States. The term "local officer" includes every other officer who is elected by the electors of a portion only of the state, every officer of a political subdivision or municipal corporation of the state, and every officer limited in the execution of his official functions to a portion only of the state. The office of a state officer is a state office. The office of a local officer is a local office.

ARTICLE 2.

Appointment and Qualification of Public Officers.

- Section 3.** Qualifications for holding office.
4. Commencement of term of office.
5. Holding over after expiration of term.
6. Mode of choosing state officers if not otherwise provided.
7. Appointment by the governor and senate.
8. Commissions of officers.

PUBLIC OFFICERS LAW.

Deputies, their appointment, number and duties.
Official oaths.

Official undertakings.

Force and effect of official undertaking.

Notice of neglect to file oath or undertaking.

Effect of consolidation on terms of office.

Validation of official acts performed before filing official
undertaking.

Qualifications of certain judicial officers in cities of the first

class for holding office.

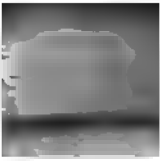
Who shall be capable of holding a civil office who shall not
be chosen thereto, be of full age, a citizen of the United States,
of the state, and if it be a local office, a resident of the city or
municipal corporation of the state for which he is elected, and
within which the electors electing him reside, or within the limits
within which the electors are required to be exercised.

Commencement of term of office.

Term of office of an elective officer, unless elected to fill a vacancy,
shall commence on the first day of January next after his
election, and the commencement thereof be not otherwise fixed by law.

Successor taking over after expiration of term.

Who except a judicial officer, a notary public, a commissioner,
or an officer whose term is fixed by the constitution, have
the duties of his office shall unless the office shall terminate



APPOINTMENT, ETC., OF PUBLIC OFFICERS. 405

office shall become vacant. If the appointment be made before the expiration of the term of such predecessor, the term of office of the appointee shall commence upon the expiration of the term of such predecessor, or if made to fill a vacancy, upon the occurrence of such vacancy, or immediately if a vacancy already exist. If the senate shall reject such nomination, the clerk of the senate shall forthwith communicate, by writing, signed by the president and clerk of the senate, to the governor the fact of such rejection. If the senate shall confirm such nomination the appointment shall be deemed complete, and thereupon duplicate certificates of the confirmation shall be made and signed by the president and clerk of the senate, who shall cause one to be delivered to the governor and the other to the secretary of state, who shall record the same in his office in a book kept for that purpose.

§ 8. Commissions of officers.

The commission of every officer appointed by the governor, or by the governor by and with the consent of the senate, shall be signed by the governor and attested under the seal of this state, by the secretary of state, who shall make and record in his office a copy of such commission, and deliver the original to the officer appointed, by a messenger, if the governor shall so direct, and otherwise, by mail, or as the secretary of state shall deem proper. Commissions of notaries public may be signed by the secretary to the governor, and shall be sent to the county clerk of the county in which such notaries public respectively reside. Every other appointment of an officer, made by one or more state officers, shall be in writing, and signed by the officer or officers, or by a majority of the officers, or by the presiding officer of the board or body making the appointment. Every such written appointment shall be deemed the commission of the officer appointed, and if of a state officer, a duplicate or a certified copy thereof shall be recorded in the office of the secretary of state; if of a local officer it shall be sent to the clerk of the county in which the officer appointed shall then reside, who shall file the same in his office, and notify the officer appointed of his appointment.

§ 9. Deputies, their appointment, number and duties.

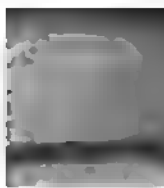
Every deputy, assistant, or other subordinate officer, whose appointment or election is not otherwise provided for, shall be appointed by his principal officer, board or other body, and the number thereof, if not otherwise prescribed by law, shall be limited in the discretion of the appointing power. If there is but one deputy, he shall, unless otherwise prescribed by law, possess the powers and perform the duties of his principal during the absence or inability to act of his principal, or during a vacancy in his principal's office. If there be two or more deputies of the same officer, such officer may designate, in writing, the order in which the deputies shall act, in case of his absence from the office or his inability to act, or in case of a vacancy in the office, and if he shall fail to make such designation, the deputy longest in office present shall so act. If two or more deputies present shall have held the office for the same period, the senior deputy in age shall so act. Such written designation by a state officer shall be filed in the office of the secretary of state; and by any other officer, in the office of the clerk of the county in which the principal has his office. If a vacancy in a public office shall be caused by the death of the incumbent, the deputies shall, unless otherwise provided by law, continue to hold office until the vacancy shall have been filled in accordance with law.

Booths

(By L. 1913, ch. 59. In effect March 6, 1913).

1 undertakings.

...ial undertaking, when required by or in pursuance of
peruted or filed by any officer, shall be to the effect that
discharge the duties of his office and promptly account
all moneys or property received by him as such officer,
law, or in default thereof that the justice executing
pay all damages, costs and expenses resulting from
ing a sum, if any, specified in such undertaking
state officer shall be approved by the comptroller both
to the sufficiency of the sureties and be filed in the
undertaking of a municipal officer shall, if not other-
wise approved as to its form and the sufficiency of the
executive officer or by the governing body of the
with the clerk thereof. The approval by such governing



unless the comptroller of the said city, shall first have approved the necessity of requiring such official undertaking to be given, and shall have approved of or fixed the amount of any such official undertaking; but this exception shall not apply to an official undertaking specifically required by statute to be given, and the amount of which is specifically fixed by statute. The failure to execute an official undertaking in the form or by the number of sureties required by or in pursuance of law, or of a surety thereto to make an affidavit required by or in pursuance of law, or in the form so required, or the omission from such an undertaking of the approval required by or in pursuance of law, shall not affect the liability of the sureties therein.

(Amended by L. 1911, ch. 424; L. 1912, ch. 481; L. 1913, ch. 325; L. 1914, ch. 48; L. 1915, ch. 623, in effect May 14, 1915.)

§ 12. Force and effect of official undertaking.

An officer of whom an official undertaking is required, shall not receive any money or property as such officer, or do any act affecting the disposition of any money or property which such officer is entitled to receive or have the custody of, before he shall have filed such undertaking; and any person having the custody or control of any such money or property shall not deliver the same to any officer of whom an undertaking is required until such undertaking shall have been given. If a public officer required to give an official undertaking, enters upon the discharge of any of his official duties before giving such undertaking, the sureties upon his undertaking subsequently given for or during his official term shall be liable for all his acts and defaults done or suffered and for all moneys and property received during such term prior to the execution of such undertaking, or if a new undertaking is given, from the time notice to give such new undertaking is served upon him. Every official undertaking shall be obligatory and in force so long as the officer shall continue to act as such and until his successor shall be appointed and duly qualified, and until the conditions of the undertaking shall have been fully performed. When an official undertaking is renewed pursuant to law the sureties upon the former undertaking shall not be liable for any official act done or moneys received after the due execution, approval and filing of the new undertaking.

§ 13. Notice of neglect to file oath or undertaking.

The officer or body making the appointment or certificate of election of a public officer shall, if the officer be required to give an official undertaking to be filed in an office other than that in which the written appointment or certificate of election is to be filed, forthwith give written notice of such appointment or election to the officer in whose office the undertaking is to be filed. If any officer shall neglect, within the time required by law, to take and file an official oath, or execute and file an official undertaking, the officer, with whom or in whose office such oath or undertaking is required to be filed, shall forthwith give notice of such neglect, if of an appointive officer to the authority appointing such officer; if of an elective officer, to the officer, board or body authorized to fill a vacancy in such office, if any, if none and a vacancy in the office may be filled by a special election, to the officer, board or body authorized to call or give notice of a special election to fill such vacancy; except that the notice of a failure of a justice of the peace to file his official oath, shall be given to the town clerk of the town for which the justice was elected.

§ 14. Effect of consolidation on terms of office.

If an officer be continued by the consolidated laws constituting the consolidation of which this chapter is a part, the person lawfully holding such office at the time of the taking effect of such consolidated laws shall, subject to the provisions of such consolidated laws, continue therein for the term for which he was chosen, or if holding over after the expiration of his term, until his successor shall be chosen and shall have qualified.

§ 15. Validation of official acts performed before filing official oath of undertaking.

If a public officer, duly chosen, has heretofore entered or shall hereafter enter on the performance of the duties of his office without taking or filing

PUBLIC OFFICERS LAW.

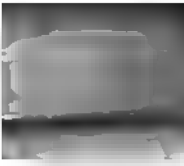
th, or executing or filing an official undertaking, as required, or by any general or special law, his acts as such officer shall be as valid and of as full force and effect as if such oath had been taken and filed, and as if such undertaking had been duly executed, notwithstanding the provisions of any general or special law, such office vacant or authorizing it to be declared vacant in case of vacancy, or imposing any other forfeiture or penalty, to take or file any such oath, or to execute or file any such undertaking; but this section shall not otherwise affect any provision of any general or special law, declaring any such office vacant, or authorizing it to be declared vacant, or to be filled as in case of vacancy, or imposing any other forfeiture or penalty, by reason of the failure to take or file any such oath, or to execute or file any such undertaking; and this section shall not exempt any such officer from the criminal liability imposed by section 16 of chapter 1 of the penal law, for entering on the discharge of his duty without taking or filing such oath or executing or filing such undertaking.

Sections of certain judicial officers in cities of the first class shall be eligible for appointment to the office of magistrate in an inferior court of criminal jurisdiction in a city of the first class, if at the time of such appointment be of full age, a citizen of the state, a resident of the city, an attorney and counselor at law, and have practiced for the period prescribed by special law, or have been a member of the legislature of the state for five consecutive years, notwithstanding the provisions of any general law inconsistent herewith.

L. 1913, ch. 586. In effect May 17, 1913.)

ARTICLE 3.

Creation and Filing of Vacancies.



required, before or within fifteen days after the commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within fifteen days after notice of his appointment, or within fifteen days after the commencement of such term; or to file a renewal undertaking within the time required by law, or if no time be so specified, within fifteen days after notice to him in pursuance of law, that such renewal undertaking is required. When a new office or an additional incumbent of an existing office shall be created, such office shall for the purposes of an appointment or election, be vacant from the date of its creation, until it shall be filled by election or appointment.

§ 31. Resignations.

Public officers may resign their offices as follows:

1. The governor, lieutenant-governor, secretary of state, comptroller, attorney-general, state engineer and surveyor, to the legislature;
2. All officers appointed by the governor alone, or by him with the consent of the senate, to the governor;
3. Senators and members of assembly, to the presiding officers of their respective houses;
4. Sheriffs, coroners, county clerks, district attorneys and registers of counties, to the governor;
5. Every other county officer, to the county clerk;
6. Every town officer, to the town clerk;
7. The officer of any other municipal corporation, to clerk of the corporation;
8. Every other appointive officer, where not otherwise provided by law, to the body, board or officer that appointed him, and every other elective officer, where not otherwise provided by law, to the secretary of state.

Every resignation shall be in writing addressed to the officer or body to whom it is made. If addressed to an officer, it shall take effect upon delivery to him at his place of business or when it shall be filed in his office.

If addressed to the legislature or to the presiding officer of either house thereof it shall be delivered to and filed with the secretary of state, and shall take effect when so delivered, and he shall forthwith communicate the fact of such resignation to the legislature or to such house, if in session, or if not, at its first meeting thereafter.

If addressed to any other body it shall be delivered to the presiding officer or clerk of such body, if there be one, and if not, to any member thereof, and shall take effect upon such delivery, and shall be filed with the clerk, or if there be no clerk, with the other records of such body. A delivery at the office or place of residence or business of the person to whom any such resignation may be delivered shall be a sufficient delivery thereof.

§ 32. Removals by senate.

The governor before making a recommendation to the senate for the removal of any officer may in his discretion take proofs, for the purpose of determining whether such recommendation shall be made.

The secretary of state, comptroller, treasurer, attorney-general, or the state engineer and surveyor, may be removed by the senate, on the recommendation of the governor, for misconduct or malversation in office, if two-thirds of all the members elected to the senate shall concur therein. No such removal shall

be made unless the person who is sought to be removed, shall have been served with a copy of the charges against him and have an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal. The governor may convene the senate in extra session for the investigation of such charges. The senate shall have power to make such rules as it may see fit for the practice before it. At the time appointed for the investigation, the senate shall proceed to hear and try the charges against such officer, and may take proofs in relation thereto.

The governor may direct the attorney-general, or may appoint any suitable person to conduct the trial of such charges before the senate.

An officer appointed by the governor by and with the advice and consent of the senate, may be removed by the senate upon the recommendation of the governor.

If the senate shall reject a recommendation of removal the clerk of the senate shall, by a writing signed by him and by the president and clerk of the senate, communicate the fact of such rejection to the governor. If the senate shall concur in such a recommendation the removal shall take effect upon the passage of the resolution of concurrence, and duplicate copies of such resolution, certified by the clerk and president of the senate, shall be executed and delivered by the clerk to the secretary of state.

§ 33. Removals by governor.

An officer appointed by the governor for a full term or to fill a vacancy, any county treasurer, any county superintendent of the poor, any register of a county, any coroner or any notary public, may be removed by the governor within the term for which such officer shall have been chosen, after giving to such officer a copy of the charges against him and an opportunity to be heard in his defense.

§ 34. Evidence in proceedings for removal by governor.

The governor may take the evidence in any proceeding for the removal by him of a public officer or may direct that the evidence be taken before a justice of the supreme court of the district, or the county judge of the county in which the officer proceeded against shall reside, or before a commissioner appointed by the governor for that purpose by an appointment in writing, filed in the office of the secretary of state. The governor may direct such judge or commissioner to report to him the evidence taken in such proceeding, or the evidence and the findings by the judge or commissioner of the material facts deemed by such judge or commissioner to be established. The commissioner or judge directed to take such evidence may require witnesses to attend before him, and shall issue subpoenas for such witnesses as may be requested by the officer proceeded against.

The governor may direct the attorney-general, or the district attorney of the county in which the officer proceeded against shall reside to conduct the examination into the truth of the charges alleged as ground for such removal. If the examination shall be before a commissioner or judge, it shall be held at such place in the county in which the officer proceeded against shall reside as the commissioner or judge shall appoint, and at least eight days after written notice of the time and place of such examination shall have been given to the officer proceeded against.

All sheriffs, coroners, constables and marshals to whom process shall be

directed and delivered under this section shall execute the same without unnecessary delay.

§ 35. Removals from office.

Every removal of an officer by one or more state officers, shall be in written duplicate orders, signed by the officer, or by all or a majority of the officers, making the removal, or if made by a body or board of state officers may be evidenced by duplicate certified copies of the resolution or order of removal, signed either by all or by a majority of the officers making the removal, or by the president and clerk of such body or board. Both such duplicate orders or certified copies shall be delivered to the secretary of state, who shall record in his office one of such duplicates, and shall, if the officer removed is a state officer, deliver the other to such officer by messenger, if required by the governor, and otherwise by mail or as the secretary of state shall deem advisable, and shall, if directed by the governor, cause a copy thereof to be published in the state paper. If the officer removed be a local officer, he shall send the other of such duplicates to the county clerk of the county in which the officer removed shall have resided at the time he was chosen to the office, and such clerk shall file the same in his office, and forthwith notify the officer removed of his removal.

§ 35-a. Removal for treasonable or seditious acts or utterances.

A person holding any public office shall be removed therefrom, in the manner provided by law, for the utterance of any treasonable or seditious word or words or the doing of any treasonable or seditious act or acts during his term.

§ 36. Removal of town or village officer by court.

Any town or village officer, except a justice of the peace, may be removed from office by the supreme court for any misconduct, maladministration, malfeasance or malversation in office. An application for such removal may be made by any citizen resident of such town or village and shall be made to the appellate division of the supreme court held within the judicial department embracing such town or village. Such application shall be made upon notice to such town officer of not less than eight days, and a copy of the charges upon which the application will be made must be served with such notice.

§ 37. Notice of existence of vacancy.

When a judgment shall be rendered by any court convicting an officer of a felony, or of a crime involving a violation of his oath of office, or declaring the election or appointment of any officer to be void, or that the office of any officer has been forfeited or become vacant, the clerk of such court shall give notice thereof to the governor, stating the cause of such conviction or judgment.

Whenever a public officer shall die before the expiration of his term of office, or shall cease to be a resident of the political subdivision of the state or a municipal corporation in which he is required to be a resident as a condition of continuing in the office, the county clerk of the county in which such officer shall have resided immediately prior to such death or removal, shall immediately give notice of such death or removal to the governor. If the governor is not authorized to fill any vacancy of which he shall have notice, he shall forthwith give notice of the existence of such vacancy to the officer or officers, or to the body or board of officers authorized to fill the vacancy, or if such vacancy may be filled by an election, to the officers authorized to give notice of such election.

§ 38. Terms of officers chosen to fill vacancies.

If an appointment of a person to fill a vacancy in an appointive office be made by the officer, or by the officers, body or board of officers, authorized to

appointed by the governor by and with the advice and consent of the senate may be removed by the senate upon the recommendation of the

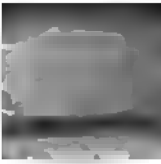
senate shall reject a recommendation of removal the clerk of the senate shall by a writing signed by him and by the president and clerk of the senate communicate the fact of such rejection to the governor. If the senate in such a recommendation the removal shall take effect upon the resolution of concurrence, and duplicate copies of such resolution by the clerk and president of the senate, shall be executed and sent by the clerk to the secretary of state.

Removals by governor.

Any officer appointed by the governor for a full term or to fill a vacancy, as treasurer, any county superintendent of the poor, any register of land, any coroner or any notary public, may be removed by the governor at any time for which such officer shall have been chosen, after giving to him a copy of the charges against him and an opportunity to be heard.

Evidence in proceedings for removal by governor.

The governor may take the evidence in any proceeding for the removal by the governor of any public officer or may direct that the evidence be taken before a judge of the supreme court of the district, or the county judge of the county in which the proceeding is commenced, or before a commissioner appointed by the governor for that purpose by an appointment in writing, signed by the secretary of state. The governor may direct such commissioner to report to him the evidence taken in such proceeding, and the findings of the commissioner as to the materiality of the charges against the officer to be removed. The commissioner shall have the power to subpoena witnesses to attend and shall issue subpoenas for such witnesses as may be requested in the proceeding against the officer.



directed and delivered under this section shall execute the same without unnecessary delay.

§ 35. Removals from office.

Every removal of an officer by one or more state officers, shall be in written duplicate orders, signed by the officer, or by all or a majority of the officers, making the removal, or if made by a body or board of state officers may be evidenced by duplicate certified copies of the resolution or order of removal, signed either by all or by a majority of the officers making the removal, or by the president and clerk of such body or board. Both such duplicate orders or certified copies shall be delivered to the secretary of state, who shall record in his office one of such duplicates, and shall, if the officer removed is a state officer, deliver the other to such officer by messenger, if required by the governor, and otherwise by mail or as the secretary of state shall deem advisable, and shall, if directed by the governor, cause a copy thereof to be published in the state paper. If the officer removed be a local officer, he shall send the other of such duplicates to the county clerk of the county in which the officer removed shall have resided at the time he was chosen to the office, and such clerk shall file the same in his office, and forthwith notify the officer removed of his removal.

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A person holding any public office shall be removed therefrom, in the manner provided by law, for the utterance of any treasonable or seditious word or words or the doing of any treasonable or seditious act or acts during his term.

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Any town or village officer, except a justice of the peace, may be removed from office by the supreme court for any misconduct, maladministration, malfeasance or malversation in office. An application for such removal may be made by any citizen resident of such town or village and shall be made to the appellate division of the supreme court held within the judicial department embracing such town or village. Such application shall be made upon notice to such town officer of not less than eight days, and a copy of the charges upon which the application will be made must be served with such notice.

§ 37. Notice of existence of vacancy.

When a judgment shall be rendered by any court convicting an officer of a felony, or of a crime involving a violation of his oath of office, or declaring the election or appointment of any officer to be void, or that the office of any officer has been forfeited or become vacant, the clerk of such court shall give notice thereof to the governor, stating the cause of such conviction or judgment.

Whenever a public officer shall die before the expiration of his term of office, or shall cease to be a resident of the political subdivision of the state or a municipal corporation in which he is required to be a resident as a condition of continuing in the office, the county clerk of the county in which such officer shall have resided immediately prior to such death or removal, shall immediately give notice of such death or removal to the governor. If the governor is not authorized to fill any vacancy of which he shall have notice, he shall forthwith give notice of the existence of such vacancy to the officer or officers, or to the body or board of officers authorized to fill the vacancy, or if such vacancy may be filled by an election, to the officers authorized to give notice of such election.

§ 38. Terms of officers chosen to fill vacancies.

If an appointment of a person to fill a vacancy in an appointive office be made by the officer, or by the officers, body or board of officers, authorized to

PUBLIC OFFICERS LAW.

in cities and villages in this state, to give leave of absence twenty-four hours of the thirtieth day of May, or such other day as may be observed as Memorial day, to every person in the state, the county, the city or village, as the case may be, who has served in the regular or volunteer army or the navy of the United States during the war with Spain or during the Philippine islands, or who has served in the regular marine corps of the United States, and who was honorably discharged. A refusal to give such leave of absence to one who has served in the regular or volunteer army or the navy of the United States during the war with Spain or during the Philippine islands, or who has served in the regular marine corps of the United States, and who was honorably discharged, shall be neglect of duty.
(1910, ch. 335, in effect May 10, 1910.)

of expenses of public officers.

Every public officer who is not allowed any compensation for his services shall be reimbursed for the actual expenses necessarily incurred in the discharge of his duties.

typewriters for recording public records.

The clerk of the state or of any municipal corporation therein shall cause to be procured and maintained such number of typewriters for the recording of public records, papers, documents or matters which are required to be recorded in their respective offices, are hereby authorized to use typewriting machines for recording the same.

having custody of papers in public offices to search and make transcripts.

Any person having the custody of the records or other papers in a public office, must, upon request, and upon payment of, or offer to pay, the fee provided by law, or, if no fee is expressly allowed by law, fees shall be paid to a county clerk for a similar service, diligently search the records and books in his office, and either make one or



instrument to be filed or recorded, or to transmit a paper to another officer, he is entitled, in addition to the fees, or other compensation for the service, prescribed by law, to the fees necessarily paid by him, to the officer who administered the oath, or took the acknowledgment, or filed or recorded the instrument; and to the expense of transmitting the paper, including postage, where the transmission is lawfully made through the post-office.

§ 69. Fee for administering certain official oaths prohibited.

An officer is not entitled to a fee, for administering the oath of office to a member of the legislature, to any military officer, to an inspector of election, clerk of the poll, or any town officer; or to more than ten cents, for administering an official oath to any other officer.

§ 70. Accounting for fees.

Where a public officer is required, by law, to keep an account of, or to pay over, the fees or other moneys, received by him for official services, he must include therein all sums, received by him, to which he was entitled, by reason of any act, performed by him in his official capacity; whether the act did or did not pertain to his office, or to the business thereof.

§ 71. Vacations for employees of the state and the several civil subdivisions thereof.—The executive officers of every public department, bureau, commission, or board of the state and of each county, city or other civil division thereof are authorized and empowered to grant to every employee under their supervision, who shall have been in such employ for at least one year, a vacation of not less than two weeks in each year, and for such further period of time as in the opinion and judgment of the executive officers, the duties, position, length of service and other circumstances may warrant, at such time as the executive officers may fix and during such vacation the said employee shall be allowed the same compensation as if actually employed.

(Added by L. 1910, ch. 680, in effect June 25, 1910.)

ARTICLE 5.

Delivery of Public Books.

Section 80. Delivery of books and papers.

§ 80. Delivery of books and papers.

A public officer may demand from any person in whose possession they may be, a delivery to such officer of the books and papers belonging or appertaining to such office. If such demand is refused, such officer may make complaint thereof to any justice of the supreme court of the district, or to the county judge of the county in which the person refusing resides. If such justice or judge be satisfied that such books or papers are withheld, he shall grant an order directing the person refusing to show cause before him at a time specified therein, why he should not deliver the same. At such time, or at any time to which the matter may be adjourned, on proof of the due service of the order, such justice or judge shall proceed to inquire into the circumstances. If the person charged with withholding such books or papers makes affidavit

before such justice or judge that he has delivered to the officer all books and papers in his custody which, within his knowledge, or to his belief belong or appertain thereto, such proceedings before such justice or judge shall cease, and such person be discharged. If the person complained against shall not make such oath, and it appears that any such books or papers are withheld by him, such justice or judge shall commit him to the county jail until he delivers such books and papers, or is otherwise discharged according to law. On such commitment, such justice or judge, if required by the complainant, shall also issue his warrant directed to any sheriff or constable, commanding him to search, in the daytime, the places designated therein, for such books and papers, and to bring them before such justice or judge. If any such books and papers are brought before him by virtue of such warrant, he shall determine whether they appertain to such office, and if so shall cause them to be delivered to the complainant.

ARTICLE 6.

Construction; Laws Repealed; When to Take Effect.

Section 90. Application of chapter.

91. Laws repealed.

92. When to take effect.

§ 90. Application of chapter.

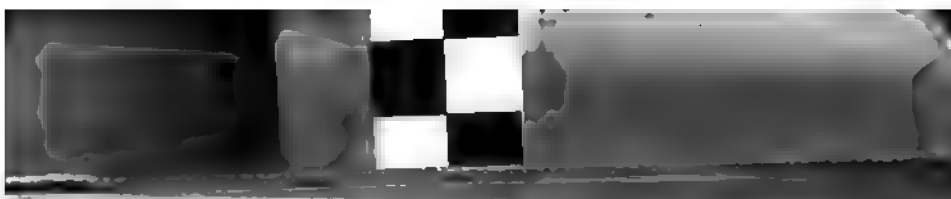
This chapter applies to civil officers only.

§ 91. Laws repealed.

Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 92. When to take effect.

This chapter shall take effect immediately.



PART 7.

STATE, COUNTY AND CITY ELECTIVE OFFICERS.

MISCELLANEOUS PROVISIONS.

PUBLIC OFFICERS LAW.

or judge that he has delivered to the officer all books and papers which, within his knowledge, or to his belief belong or have belonged to such officer, and that such proceedings before such justice or judge shall cease, and the person complained against shall be discharged. If the person complained against shall not appear, or it appears that any such books or papers are withheld, the justice or judge shall commit him to the county jail until he produces the books and papers, or is otherwise discharged according to law. If required by the complainant, the justice or judge, if required by the complainant, shall issue a warrant directed to any sheriff or constable, commanding him, at any time of the day or night, to bring such books and papers to the places designated therein, for such books and papers to be brought before such justice or judge. If any such books and papers are brought before him by virtue of such warrant, he shall cause them to be appertained to such office, and if so shall cause them to be appertained to the complainant.

ARTICLE C.

Section 1. Laws Repealed; When to Take Effect.

Section 1. of chapter.

Repealed.

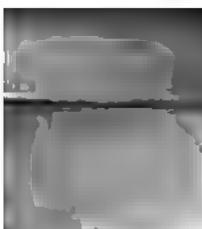
Take effect.

Section 2. of chapter.

Applies to civil officers only.

Repealed.

Repealed in the schedule hereto annexed, that portion specified is hereby repealed.



PART 7.

STATE, COUNTY AND CITY ELECTIVE OFFICERS.

MISCELLANEOUS PROVISIONS.





STATE, COUNTY AND CITY ELECTIVE OFFICERS.

MISCELLANEOUS PROVISIONS.

Record of terms of judges of courts of record.

The secretary of state must keep a record of the time of the commencement and termination of the official term, of each judge of a court of record.

Executive Law, § 29.

Undertaking of state treasurer.

The treasurer shall give an official undertaking in the sum of fifty thousand dollars, approved by the president of the senate, speaker of the assembly and comptroller. After the appointment and qualification of his successor, upon filing in the office of the secretary of state a certificate from the committee who shall have examined and settled his accounts of the preceding year, certifying that such accounts are regularly stated and balanced, and that the balance, if any, is actually in the treasury, or deposited as required by law, such undertaking shall be delivered to him for cancellation.

Executive Law, § 51.

Deputy attorney-general to act as special district attorney and as counsel to state superintendent of elections.

Whenever the governor shall advise the attorney-general that he has reason to doubt whether in any county the law relating to crimes against the elective franchise is properly enforced, the attorney-general shall require from the district attorney of such county, and it shall be the duty of such district attorney forthwith to make to the attorney-general a report of all prosecutions and complaints within his county during the year then last past for offenses under the election law and article seventy-four of the penal law and of the action had thereon. The attorney-general may require from the state superintendent of elections, and it shall be that officer's duty forthwith to make a report of all prosecutions within such county during the year then last past for such offenses upon complaints made by said superintendent, or his deputy superintendents of elections, and of the action had thereon. The attorney-general shall assign one or more of his deputies to act as counsel for the state superintendent of elections and to take charge of prosecutions under the election law and article seventy-four of the penal law. Such deputy shall represent the people of this state in all such prosecutions before all magistrates and in all courts and before any grand jury having cognizance thereof; and shall act as special counsel and adviser to said state superintendent of elections in the performance of his duties. The deputies so assigned shall be appointed pursuant to section sixty-one of this chapter. They may be especially

STATE, COUNTY AND CITY ELECTIVE OFFICERS

become vacant. Such undertaking, with the approval of the board of supervisors, shall be filed in the office of the county clerk. The person named shall be liable to the state for the payment, according to law, of all moneys belonging to the state, and for the rendering of accounts therefor to the state comptroller.

§ 140.

Appointment, term of office and undertaking of

continue:

There shall be elected in each of the counties a county clerk, who shall hold office for four years from and including the first day of January

appointed by the governor, a county clerk, when a vacancy occurs in the office, and the person so appointed shall hold the office until the last day of December succeeding the first annual election after the date of the vacancy.

When elected or appointed to the office of county clerk, the person so elected or appointed shall, within fifteen days after his election or appointment, execute an undertaking to the county, with at least the approval of the board of supervisors, if in session, or the clerk of the board, otherwise with the approval of the clerk of the supreme court residing in the county, or a judge or justice approving the same. He shall faithfully execute and discharge the duties of the office, and shall receive all moneys deposited with him pursuant to law, or by his predecessor in office, and pay them over as directed by such order.

**Election, appointment and terms of office of sheriffs and coroners, and the undertakings of sheriffs.**

There shall continue,

1. To be elected in each of the counties a sheriff, and in each of the counties containing a population of one hundred thousand and over, except Nassau county, four coroners, and in all other counties such number of coroners, not more than four, as shall be fixed by the board of supervisors, who shall respectively hold their offices for three years from and including the first day of January succeeding their election. The board of supervisors of a county containing a population of less than one hundred thousand, and having more than one coroner, may, by resolution, determine that after the first day of January of a year to be specified in such resolution, the number of coroners in such county shall be reduced to a specified number not less than one, and may by such resolution fix the terms of coroners to be thereafter elected in such county so that the terms of all the coroners therein will expire on the first day of January of the year specified in the resolution.

2. To be appointed by the governor, a sheriff, or a coroner, when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter, at which such vacancy can be lawfully filled.

Every person elected or appointed to the office of sheriff shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the county clerk of his county, a joint and several undertaking to the county, approved by such clerk to the effect that such sheriff will, in all things, perform and execute the office of sheriff of his county during his continuance therein, without fraud or deceit. Such undertaking shall be filed in the office of the county clerk; and the clerk shall, at the time of his approval thereof, examine each surety thereto under oath; and he shall not approve of such undertaking, unless it shall appear on such examination that such sureties are jointly worth at least fifteen thousand dollars over and above all debts whatever; which examination, subscribed by the sureties, shall be indorsed on or attached to the undertaking; but the clerk shall determine the sufficiency of each surety. In the same manner the security shall be renewed within the twenty days after the first Monday of January in each year subsequent to that in which he shall have entered upon the duties of his office.

County Law, § 180; amended by L. 1912, ch. 91; L. 1916, ch. 87.

Under-sheriffs.

Each sheriff shall, within ten days after he enters on the duties of his office, appoint some proper person under-sheriff of his county, to hold during his pleasure. When a vacancy shall occur in the office of sheriff, the under-sheriff shall, in all things, execute the duties of the office as sheriff, until a sheriff shall be elected or appointed and duly qualified; and any default or misfeasance in the office of such under-sheriff in the meantime, as well as before, shall be deemed to be a breach of the undertaking given by the sheriff who appointed him and also a breach of the undertaking executed by such under-sheriff, to the sheriff by whom he was appointed.

County Law, § 181.

Election, appointment, term of office and undertaking of district attorney.

There shall continue,

1. To be elected in each of the counties a district attorney, who shall hold his office for three years from and including the first day of January succeeding his election;

2. To be appointed by the governor, a district attorney, when a vacancy shall occur in such office, and the person so appointed shall hold the office until

COUNTY AND CITY ELECTIVE OFFICERS.

On the last day of December succeeding the first annual election in which such vacancy can be lawfully filled.

In the county of Kings, every person elected or appointed to the office of district attorney, shall, before he enters upon the duties of his office, within fifteen days after notice thereof, execute and deliver, to the clerk of his county, a joint and several undertaking to the effect that he will faithfully account for and pay to the county judge, with two or more sufficient sureties, bondholders, and in such sum as the board of supervisors of the county may direct, to the effect that he will faithfully account for and pay to the law, or as the court may direct, all moneys that may come due to such district attorney.

It shall be the duty of every district attorney to conduct all prosecutions for offenses cognizable by the courts of the county for which he is elected or appointed; except when the place of trial of an indictment is changed from one county to another, it shall be the duty of the district attorney of the county where the indictment is found to conduct the trial, and it shall be the duty of the district attorney of the county to which such trial is changed to assist in such trial.

200. Amended by L. 1914, ch. 62, in effect March 21, 1914.

Appointment and term of office of superintendents of the poor.

In the county of Kings, and in the city of Richmond, one or more superintendents of the poor shall be elected or appointed. No supervisor of a town, or county treasurer, shall be eligible to such office. The board of supervisors of any county may, by resolution, determine by resolution that thereafter only one superintendent of the poor shall be elected; but no superintendent shall be elected or appointed in such county until the general election next following the expiration of the term of the last superintendent.



3. To be elected a county superintendent of the poor in a county when a vacancy shall occur in such office, and the term of which shall not expire on the last day of the next succeeding December, and the person so elected shall hold the office for such unexpired term, which shall be designated upon the ballots of the electors, or until his successor shall be elected and qualifies;

4. To be elected in each of the counties so having, and entitled to have but one superintendent, a superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

5. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a superintendent of the poor, in a county having and being entitled to but one superintendent, when a vacancy shall occur in such office; and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

6. To be elected in the succeeding year after the board of supervisors of a county having but one superintendent of the poor, shall have adopted a resolution to have three superintendents, if the term of the superintendent in office expires with such year, three superintendents of the poor for such county, for the terms of one, two and three years respectively, which terms shall be respectively designated upon the ballots of the electors voting for such officers. If the term of the superintendent in office will not expire with such succeeding year, there shall be elected two superintendents of the poor for such county, for such terms, to be so designated upon the ballots of the electors voting for such officers, as will make the terms of one of the three superintendents expire with each succeeding year, and one superintendent of the poor shall thereafter be annually elected. Such persons so elected shall hold the office from and including the first day of January succeeding his election, and until and including the last day of December of the year in which his term shall so expire, and until his successor is duly elected and qualifies. When ballots are voted without designating the term, the first name on the ballot shall be deemed as intended for the full or longer term of the officer voted for; the second name for the next longer term, and the third name for the shorter term.

County Law, § 220.

Undertaking of superintendent of the poor.

Every person elected or appointed to the office of superintendent of the poor shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the clerk of the county, to be filed in his office, his undertaking to the county, with two or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk; otherwise by the county judge of his county, or a justice of the supreme court of his judicial district, and in such sum as such board, judge or justice approving the same shall direct, to the effect that he will faithfully discharge the duties of his office as such superintendent of the poor, and pay according to law all moneys that shall come into his hands as such superintendent, and render a just and true account thereof to the board of supervisors of his county.

, County Law, § 221. Amended by L. 1914, ch. 62, in effect March 21, 1914.



COUNTY AND CITY ELECTIVE OFFICERS.

ment and term of office of county judge, surrogate, special judge and special surrogate.

continue to be elected in each of the counties now having such

judge and a surrogate, who shall severally hold the office for and including the first day of January succeeding his election. County judge and a special surrogate, pursuant to the several statute creating and respectively defining the terms and duties

continue to be appointed by the governor, by and with the senate, if in session, a county judge, surrogate, special county surrogate, when a vacancy shall occur in either of such person so appointed shall hold the office until and including December succeeding the first annual election thereafter at any can be lawfully filled.

§ 230.

judge in Kings county.

For the passage of this act there shall be an additional county judge in Kings, making the number of county judges in said county of four as heretofore provided. This additional county judge shall receive the same compensation as the other county judges in Kings county, and the duties and jurisdiction of such additional county judge shall be equal with the county judges of such county now by law, § 230-a, as added by L. 1915, ch. 83, in effect March

undertaking of surrogate.

Supervisors of any county, except Kings, having a population of one hundred, may, by resolution at a meeting thereof, determine that a surrogate therein shall be a separate office, and provide for the same. The clerk of the board shall immediately file the same with the county clerk, who shall file the same in his office.

or proven and certified, and the approval indorsed thereon. The parties executing the same shall be jointly and severally liable, regardless of its form in that respect, for damages sustained by reason of a breach thereof. Every officer or board required to approve an undertaking may examine each surety thereto under oath, and shall not approve the same unless the sureties are freeholders of the state and jointly worth over and above their debts and liabilities at least double a sum which such officer or board may fix upon and insert in the undertaking as reasonably sufficient to indemnify the county, and every person who may be or become interested therein, or in any breach thereof. Official bonds and undertakings, including the bonds of executors, administrators, guardians and trustees, required by law to be filed in the office of the county clerk or surrogate, shall also be recorded in such offices respectively, in a book to be provided and kept in each of such offices, to be designated "book of official bonds and undertakings." The county clerk and surrogate's clerk shall respectively be entitled to the same fees for such recording, as are allowed to county clerks for recording conveyances, except that in counties where the surrogate's clerk receives a salary as full compensation for his services he shall not be entitled to any fee for such services.

County Law, § 247.

Term of office of city supervisors.

The term of office of each supervisor hereafter elected in a city shall, notwithstanding the provisions of such city charter, be two years, and a supervisor shall only be elected in such city each second year thereafter, except to fill vacancies.

General City Law, § 2.

Removal of appointive officers in cities of the third class.

No officer heretofore or hereafter appointed by the mayor of a city of the third class, or nominated and appointed by such mayor by or with the consent of the common council of such city, shall be removed or suspended from office without the approval of such mayor, such approval to be in writing and filed with the city clerk.

(General City Law, § 4, added by L. 1913. ch. 770. In effect May 27, 1913.)

2. COUNTY AND CITY ELECTIVE OFFICERS.

in second class cities.

electd by the qualified electors of the city, a mayor, comptroller, president of the common council and four assessors. There shall also be elected by the qualified electors of each ward of the city an alderman.

There shall also be elected by the qualified electors of the wards thereof such other officers as may be provided by law. City Law, § 11.

in second class cities.

Term of office of each elective officer, unless elected to fill a vacancy shall commence on the first day of January next succeeding his appointment. The term of office of each appointive officer shall commence on the day of his appointment unless a different date is specified in the appointment. The term of office of the mayor, comptroller, president of the common council shall be two years. The term of office of the alderman and supervisor shall be two years. The term of office of the assessors shall be four years, except that at the city election first held after the same shall have become a city of the second class the provisions of this chapter relating to the election of its officers shall be applicable thereto, two of the assessors shall be elected for a term of two years and two for a term of four years. The term of office of the city engineer, commissioner of public works, commissioner of health and sealer of weights and measures shall be two years, unless otherwise provided by the mayor. Where the term of office of an appointive officer is not specifically fixed by statute it shall be deemed to continue until the pleasure of the officer, officers, board or body authorized to appoint or remove the same.

person to fill such vacancy. The person so appointed to such vacancy, if the office be not made elective by the constitution, shall hold office for the balance of the unexpired term. If the office be made elective by the constitution, the term of office of the person so appointed shall be until the commencement of the political year next succeeding the first annual election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the next city election happening not less than twenty days after such vacancy occurs. If a vacancy shall occur in an appointive office of the city, otherwise than by expiration of term, the office, officers, board or body authorized to make appointment to office for the full term shall appoint a person to fill such vacancy for the balance of the unexpired term.

Second Class Cities Law, § 15.

Official undertakings in second class cities.

No person elected or appointed to a city office shall enter upon or continue in the discharge of the duties of his office until he shall have executed and filed with the city clerk the official undertaking, if any, required to be given and the same shall have been approved as to its form and validity by the corporation counsel and as to the sufficiency of the sureties by the mayor. All such undertakings shall be recorded in the office of the city clerk. In addition to the city officers required in this chapter, or otherwise by law, to give official undertakings, the common council may require any other city officer to give an official undertaking in such penal sum and with such conditions and sureties as it shall direct and approve. It may also, in a proper case, require an undertaking of any officer in addition to that required by law. The mayor shall examine the sufficiency of the proposed sureties of any officer or person from whom an official undertaking is required and may require such sureties to be examined on oath as to their property qualifications and liabilities. The deposition of each surety shall be reduced to writing, subscribed by him, certified by the officer administering the oath and annexed to and filed with the undertaking. In case any city officer shall fail to file the required official undertaking, if an elective officer, within thirty days after receipt of his certificate of election, and if an appointive officer, within fifteen days after receipt of notice of his appointment, the office shall be deemed to be vacant and the vacancy shall be filled in the manner herein provided for the filling of a vacancy therein happening otherwise than by expiration of term. The official undertaking of a city officer shall not be a lien upon real estate owned by him or the sureties on such undertaking.

Second Class Cities Law, § 16.

Acting mayor in second class cities.

Whenever there shall be a vacancy in the office of mayor, or whenever by reason of sickness or absence from the city the mayor shall be prevented from attending to the duties of the office, the president of the common council shall act as mayor and possess all the rights of mayor during such period of disability or absence. In case of a vacancy in the office of mayor he shall so act until noon of the first day of January next succeeding the election at which the mayor's successor shall be chosen. It shall not be lawful for the president of the common council when acting as mayor in consequence of the absence or sickness of the mayor to exercise any power of appointment or removal from

COUNTY AND CITY ELECTIVE OFFICERS.

sickness or absence shall have continued for a period of
if sign, approve or disapprove any ordinance or resolution
m or absence shall have continued for a period of at least

Ill. Law, § 21.

a second class cities.

one justice of the court to be known as the police justice.
is filled by election by the electors of the city at the city
n of the police justice shall be six years and he shall receive
to be fixed by the board of estimate and apportionment, pro-
ut if the city does not have or is not authorized by law to
the officer possessing the jurisdiction of a court of special
ry shall be fixed at not less than thirty-five hundred dollars
police justice in any city shall have served as such for more
ative years, the board of estimate and apportionment may
be provisions of section seventy four of this chapter, increase
h justice, from time to time, during his term of office, to
time of any such increase as from the first day of January
nder year, as the board may determine. No person shall be
n to the office of police justice unless he be an elector and
ney of the supreme court of the state for five years. In
e or disability of the police justice or of a vacancy in the
lge or judge of the municipal court shall perform the duties
f the police justice returns, his disability ceases or the

Ill. Law, § 181. Amended by L. 1914, ch. 85, in effect

section. how filled in second class cities.



PART 8.

TOWN MEETINGS AND ELECTION, TENURE AND QUALIFICATION OF TOWN OFFICERS.

MISCELLANEOUS PROVISIONS.

21
22
23





TOWN MEETINGS.

Town meeting.

The electors of a town shall, biennially, on the second Tuesday of February, assemble and hold meetings at such place in the town as the electors thereof at their biennial town meeting shall, from time to time, appoint. If no place shall have been fixed for such meeting, the same shall be held at the place of the last town meeting in the town or election district, when town meetings of a town are held in election districts. The board of supervisors of any county may, by resolution, fix a time when the biennial town meetings in such county shall be held, which shall be either on some day between the first day of February and the first day of May, inclusive, or on the first Tuesday after the first Monday in November of an odd numbered year.

Town Law, § 40.

Changing date of town meeting.

A town may change the date of its town meeting to the first Tuesday after the first Monday in November, known as general election day, by adopting a proposition therefor at a regular town meeting. Such a proposition may be submitted by the town board on its own motion, and shall be submitted by such board on the written application of twenty-five taxable voters of the town. The proposition must be submitted, voted on, and the result canvassed as prescribed by section forty-eight. If it be adopted a certificate to that effect shall be filed by the town clerk within ten days thereafter in the office of the county clerk and also with the clerk of the board of supervisors. If the proposition be adopted the first town meeting shall be held on general election day in the next calendar year, and the terms of all officers, except justices of the peace and assessors, elected on the day of the adoption of the proposition, shall expire on the day of such first meeting. Thereafter town meetings in such town shall be held biennially on general election day in the manner prescribed by this chapter, except that after five years from the first meeting, the town meeting may in like manner change from such general election to any other day authorized by law. The term of office of all officers, except justices of the peace, in a town which under this section changes its town meeting to general election day, shall be two years from the date of their election, except that the term of an assessor elected on such day shall be for two or four years, as the case may be, from the date of such election.

Town Law, § 41, as amended by L. 1910, ch. 271, in effect July 1, 1910.

Place of town meeting.

The electors of a town may, upon the application of fifteen electors therein, to be filed with the town clerk twenty days before a biennial town meeting is to be held, determine at such meeting, by ballot, where future town meetings shall be held. Where town meetings in any town are held in separate election districts, the electors of each district may, at a biennial town meeting, deter-

TOWN MEETINGS AND TOWN OFFICERS.

for where its future town meetings shall be held. If any place shall thereafter, and before the close of the next biennial town meeting, or for any reason become unfit for use or can not be used for such purpose, the town board shall forthwith designate some place for holding such town meeting in said town or elsewhere as the case may be. The provisions of this section shall not be counties where the town meetings are held at the same time.

42.

Town meeting.

Each town may, at their biennial town meeting, choose what number of constables, not exceeding five, and pound-keepers in their town for the term ensuing is a year; except in a county containing two hundred thousand inhabitants or to the last federal census or state enumeration, a town or place containing a population of over one million, the number so determined shall not exceed four. The number of town officers as may be required to be chosen.

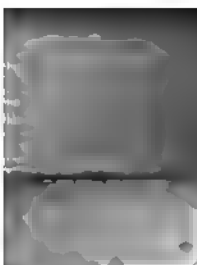
43, amended by L. 1917, ch. 40.

Town meeting to fill vacancy in office of justice of the peace.

At any meeting to fill vacancies in the office of justice of the peace of any town holding its biennial town meeting, persons shall then also be chosen to fill such vacancies, who shall hold their offices for the residue of the term for which they are respectively elected.

44.

Town meeting.



TOWN MEETINGS.

435

Clerk of town meeting.

The town clerk last before elected or appointed, or, if he be absent, such person as shall be chosen by the electors present, shall be the clerk of such town meeting, except when held at the time of a general election, and shall keep faithful minutes of its proceedings, in which he shall enter at length every order or direction, and all rules and regulations made by such meeting; such person chosen by the electors present shall take the constitutional oath of office before entering upon his duties as such clerk.

Town Law, § 50.

Duration of town meeting.

Town meetings shall be kept open for the purposes of voting in the daytime only, between the rising and setting of the sun, and, if necessary, may be continued by a vote of the meeting during the next day, and no longer, and be adjourned to another place not more than one-fourth of a mile from the place where it was appointed.

Town Law, § 51.

Proclamation of opening and closing polls of town meeting.

Before the electors shall proceed to elect any town officer, proclamation shall be made of the opening of the polls, and proclamation shall in like manner be made of each adjournment and of the opening and closing of the polls until the election be ended.

Town Law, § 52.

Qualification of elector at town meeting.

An elector of a town shall not be entitled to vote by ballot upon any proposition for the raising or appropriation of money, or the incurring of any town liability, unless he or his wife is the owner of property in the town, assessed to him or her upon the last preceding assessment-roll thereof.

Town Law, § 53, as amended by L. 1913, ch. 124. In effect March 25, 1913.

When women are qualified to vote.

A woman who possesses the qualifications to vote for town officers, except the qualification of sex, and who is the owner of property in the town assessed to her upon the last preceding assessment-roll thereof, is entitled to vote upon a proposition to raise money by tax or assessment.

Town Law, § 55, as amended by L. 1913, ch. 124. In effect March 25, 1913.

Ballots for full term and vacancies.

When the electors of any town are entitled to vote for a justice of the peace, to fill a vacancy caused otherwise than by expiration of term, each elector may designate upon his ballot the person intended for a full term and for a vacancy, and if there are two vacancies, they may be designated as the longer and the shorter vacancy; and if three vacancies, the longer, shorter and shortest vacancy; and each person having the greatest number of votes with reference to each designation shall be deemed duly elected for the term or vacancy designated. If ballots are voted without designation, the first name on the ballot shall be deemed as intended for the full term of the office voted for, the second name for the longer vacancy, the third name for the shorter

TOWN MEETINGS AND TOWN OFFICERS.

fourth name for the shortest vacancy. The provisions of
apply to new towns erected; and officers to be elected in
t for a full term, shall be deemed elected to fill vacancies.

5.

22.

own meetings upon any proposition to raise or appropriate
any town liability exceeding five hundred dollars shall be by
hundred dollars or less may be viva voce, unless ballot is
law authorizing the expenditure.

7.

ors vote by ballot, except in towns where the biennial town
l at the time of general elections, all the officers voted for
one ballot, which shall contain written or printed, or partly
printed, the names of the persons voted for, and the offices
sons are intending to be elected, and shall be delivered to the
so folded as to conceal the contents, and shall be deposited
a box to be constructed, kept and disposed of, as near as
anner prescribed in the election law.

4.

highway questions where village is separate road

n shall have within its limits an incorporated village, con-
road district exempt from the supervision and control

ings shall be determined by the majority of the electors voting, and the officers presiding at such meeting shall ascertain and declare the result of the votes upon each question.

Town Law, § 60.

Challenges.

If any person offering to vote at any town meeting or upon any question arising at such town meeting shall be challenged as unqualified, the presiding officers shall proceed thereupon in the manner prescribed in the election law when challenges are made, which law, with its penalties, is made applicable thereto, and no person whose vote shall have been received upon such challenge shall be again challenged upon any other question arising at the same town meeting.

Town Law, § 61.

Minutes of proceedings.

The poll-list and minutes of the proceedings of every town meeting, subscribed by the clerk of such meeting, and by the officers presiding, shall be filed in the office of the town clerk within two days after such meeting and there preserved.

Town Law, § 62.

Poll-list at town meeting.

A poll-list shall be kept by the clerk of the town meeting referred to in sections fifty-eight and fifty-nine on which shall be entered the name of each person voting by ballot.

Town Law, § 63.

Canvass of votes.

At the close of the polls at any town meeting, the canvassers shall proceed to canvass the votes publicly at the place where the meeting was held. Before the ballots are opened they shall be counted and compared with the poll-list, and the like proceedings shall be had as to ballots folded together, and differences in number, as are prescribed in the election law. The void and protested ballots, and the voted ballots other than void and protested, shall be preserved and disposed of by the inspectors in the manner provided by sections three hundred and seventy-three and three hundred and seventy-four of the election law. The result of the canvass shall be read by the clerk to the persons there assembled, which shall be notice of the election to all voters upon the poll-list. The clerk shall also enter the result at length in the minutes of the proceedings of the meeting kept by him, and shall, within ten days thereafter, transmit to any person elected to a town office, whose name is not on the poll-list as a voter, a notice of his election.

Town Law, § 64.

Town meeting by election districts.

The electors of a town may determine by ballot at a biennial or special town meeting on the written application of twenty-five electors, that town meetings shall thereafter be held in the several election districts of their town, to be therein conducted by the inspectors of election thereof, instead of

TOWN MEETINGS AND TOWN OFFICERS.

peace of the town; or may authorize the town to be divided into two or more joint election districts, as provided in the laws of this State. The board of any town which has been so authorized may divide the town into two or more joint election districts, for the purpose of holding elections therein, but such districts shall be constituted in accordance with the laws of this State. If the town board of any town divide the town into joint election districts in pursuance of this act, the inspectors of election for such town shall be selected from the inspectors of election for such town, not more than two of whom shall belong to any one district, for each of such election districts as so constituted. In any town meeting in more than one district, the inspectors of election in each district shall appoint one poll clerk, and in the case of a joint election the poll clerk shall have the same powers and duties as the poll clerk have at the biennial town meetings provided in the laws of this State. No officer shall be required to make or render any report at a town meeting when held in separate or joint districts. At the close of the polls, the inspectors shall forthwith count the votes so cast, and, without postponement or adjournment, report of the whole number so cast for each and every proposition voted upon at such town meeting. The inspectors shall also count the voted ballots other than void and rejected ballots, and disposed of by the inspectors in the manner provided in the laws of this State. Such report shall be in the same form as statements by such inspectors of election, and shall be signed by the inspectors and a number, selected by them, for that purpose, to the full



sition, and the number so voting against the same, and shall enter in the statement of the result of the town meeting held in such district a statement of the proposition so voted upon, and the number of votes so cast in favor of and against the same and certify with the statement that they are required to certify and return to the justices of the peace and town clerk of the town. No such proposition shall be so voted upon unless notice that such vote will be taken has been published by the town clerk at least one week before the town meeting, in a newspaper published in the town, if any such is published therein, and such notice shall also be posted for the same length of time at the place where the poll of the town meeting is to be held, in each separate or joint election district, and shall be publicly read by the inspectors to the voters present before any such vote is taken. Any elector of the town may, by a written application filed with the town clerk at least ten days before the town meeting is to be held, require such notice to be given by the town clerk. Every such proposition shall be submitted to a vote, commencing at the hour of twelve, noon, and continuing until all such propositions have been voted upon, and every such proposition shall be submitted to the vote of the electors of the town at the poll of every separate or joint election district in the town.

Town Law, § 66.

Town meeting at time of general election.

If, in any town, the biennial town meeting is held at the same time as the general election, such town meeting shall be held in the election districts of such town, and be conducted by the inspectors of election thereof. At the close of the polls at any such town meeting, the inspectors shall proceed to canvass the votes for the candidates for the several town offices in the election districts where such town meeting was held, in the same manner as the votes for other candidates cast at the general election are canvassed. They shall make a statement of the whole number of votes cast for each candidate for a town office and deliver the same to one of the justices of the peace of the town, and, on the Thursday succeeding such town meeting, such votes shall be recanvassed, the additional inspectors of election in each district shall be appointed, and the result of the election declared as provided by section sixty-five of this chapter. In case of a contest or other proceeding in which the validity of the election of a town officer in any such town is in controversy, the ballots cast at any town meeting and election may be examined and recounted, as provided by law, in case of other officers elected at general elections.

Town Law, § 67.

Ballots at town meeting held at time of general election.

At town meetings in towns held at the same time as general elections, the names of all candidates for town offices shall be voted for in the same manner and on the same ballot as candidates for other offices voted for thereat.

Town Law, § 68.

Qualification of voter at town meeting held at time of general election.

At a town meeting held at the time of a general election no person shall be allowed to vote for candidates for town officers who is not registered and entitled to vote at such general election.

Town Law, § 69.

TOWN OFFICERS.

Otherwise provided in this section, there shall be elected at the annual meeting in each town, by ballot, one supervisor, one clerk, one justice of the peace, two assessors, one collector, one or two constables and more than five constables and one superintendent of highways. In towns which shall have adopted a resolution that a superintendent shall be appointed by the town board, provided in section forty one of the highway law, he shall be appointed. Provided, however, that in towns in a county having less than one thousand or less inhabitants, according to the last federal enumeration, adjoining a city of the first class containing over one million, the town superintendent of highways shall hold office for the term of four years; and in a town of any such county not more than four constables shall be elected at the biennial town meeting. At the first biennial town meeting, after this section as hereby amended takes effect, one supervisor, one clerk, one justice of the peace, one collector, one or two constables and one assessor shall be elected to hold office for two years and one assessor for four years. Of the two assessors chosen at any subsequent town meeting in each town, one shall be elected to hold office for two years and one for four years.

§ 27-1, as amended by L. 1910, ch. 271; L. 1916, ch. 344

Town officers.

Any person who is a citizen of the town shall be eligible to any town office, except the clerk of the town. The clerk shall also be able to read and write. But a person who is a citizen of the town, a member of the board of selectmen, a member of the board of the poor, a school commissioner, trustee of a school, a justice of the peace, a collector, a constable, a superintendent of highways, shall be eligible to the office of supervisor in the town or ward in this state.



TOWN MEETINGS.

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No resolution changing the time of holding town meetings to the first Tuesday after the first Monday in November shall be effectual to dispense with the holding of the first biennial town meeting after the adoption of such resolution at the time fixed when such resolution was adopted. But the collector in each town shall complete the duties of his office in respect to the collection of taxes, and the payment and return thereof, upon any warrant received by him during his term of office, notwithstanding the fact that his successor has entered upon the duties of his office.

Town Law, § 82, as amended by L. 1910, ch. 271; L. 1913, ch. 231. In effect April 8, 1913.

Oath of office.

Every person elected or appointed to any town office, except justice of the peace, shall before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, take and subscribe before some officer authorized by law to administer oaths in his county, the constitutional oath of office, and such other oath as may be required by law, which shall be administered and certified by the officer taking the same without reward, and shall within eight days be filed in the office of the town clerk, which shall be deemed an acceptance of the office; and a neglect or omission to take and file such oath, or a neglect to execute and file, within the time required by law, any official bond or undertaking, shall be deemed a refusal to serve, and the office may be filled as in case of vacancy.

Town Law, § 83.

Resignation of town officer.

Any three justices of the peace of a town may, for sufficient cause shown to them, accept the resignation of any town officer of their town; and whenever they shall accept any such resignation, they shall forthwith give notice thereof to the town clerk of the town.

Town Law, § 84.

Town clerks' undertakings.

Every town clerk hereafter elected or appointed shall, within thirty days after entering upon the duties of his office, make and deliver to the supervisor of the town his undertaking, with such sureties as the town board shall prescribe, in a penal sum not exceeding one thousand dollars, to be determined by the town board, to the effect that he will well and faithfully discharge his official duties as such town clerk, and that he will well and truly keep, pay over and account to the proper board, officer or commission of the town, state or county, and account for, all moneys and property going into his hands in his official capacity; and such undertaking shall, after its execution, be presented by the supervisor to the town board for their approval as to its form and the sufficiency of the sureties thereon. Until such undertaking shall have been approved, none of the moneys, books, documents, papers or property of the town, county or state shall be turned over or delivered to such town

TOWN MEETINGS AND TOWN OFFICERS.

After the approval of such undertaking, the supervisor shall be in the office of the county clerk.

W. § 92 a, as added by L. 1912, ch. 136.

W. § 92 a.

It is the duty of the town clerk, annually, between the first and the fifteenth day of December, to transmit to the clerk of the county a list containing the names of each supervisor, town supervisor, town clerk, assessor and collector, showing his date of his appointment or election and the expiration of his term.

W. § 92 a, as added by L. 1917, ch. 588.

It is the duty of the clerk of justice of the county to transmit certificate of election of justice of the county to the clerk of each town.

After the peace has been declared, transmit to the clerk of the county showing the result of such election under his hand, with evidence of the fact therein certified.

W. § 94.

Supervisor's undertaking.

Every supervisor hereafter elected or appointed shall, when entering upon his office, make and deliver to the town board his undertaking, with such sureties as the town board may require, to the effect that he will well and faithfully discharge his duties as such supervisor, and that he will well and faithfully account for all moneys and property, including the same, if any, belonging to his town and coming into his hands as supervisor, and such undertaking shall, after its execution, be presented to the town board for their approval as to its form and the sureties therein, and until the same shall be approved, he shall not be entitled to receive any of the moneys, books, documents, papers or property of the town.



electd, but, except as hereinafter provided, no successors to them shall be elected. In each of said counties there shall be elected at the biennial town meeting in nineteen hundred and three, two justices of the peace whose terms of office shall begin on the first day of January succeeding their election, and who shall hold office for the term of four years. At the biennial town meeting in each of said counties held in nineteen hundred and five, there shall be elected two justices of the peace whose terms of office shall begin January first, succeeding their election, and who shall hold office for four years. At each biennial town meeting thereafter, there shall be elected two justices of the peace for the full terms of four years, commencing on the first day of January succeeding the town meeting.

Town Law, § 103.

Justice of the peace in new towns.

If there be one or more justices of the peace residing in a new town, when erected, they shall be deemed justices of the peace thereof, and shall hold their offices according to their respective classes; and only so many shall be elected as shall be necessary to complete the number of four for the town.

Town Law, § 104.

When more than four justices of the peace may hold office.

If by the erection of a new town, or the annexation of a part of one town to another, there shall at any time be more than four justices of the peace residing in any town, they shall hold and exercise their offices in the town in which they reside, according to their classes respectively; but on the expiration of the term of office of two or more justices, being in the same class, only one person shall be elected to fill the vacancy in that class. Whenever by the erection of a new town, or the annexation of a part of one town to another, any town shall be deprived of one or more justices of the peace, by their residence being within the part set off, the inhabitants of such town shall, at its next annual town meeting, supply the vacancy so produced in the classes to which such justices belong.

Town Law, § 105.

Justice's undertaking and oath.

Every justice of the peace elected or appointed in any of the towns or cities of this state, except the city of New York and any city whose charter requires such officer to give a bond or undertaking, shall, before he enters upon the duties of his office, execute an undertaking with two sureties to be approved by the supervisor of the town, or the town clerk thereof, where the justice of the peace is also supervisor of the town, or the common council of the city in which the justice shall reside, to the effect that he will pay over on demand, to the officer, person or persons entitled to the same, all moneys received by him by virtue of his office, and file the undertaking in the office of the clerk of the city or town in which he resides. Every justice shall also, on or before the fifteenth day of January next succeeding his election, file with the county

Town Meetings and Town Officers.

ate of the clerk of the city or town in which he
of such undertaking. Such justice of the peace shall
before some officer authorized by law to administer
the constitutional oath of office, upon blanks to
county clerk. Such oath shall be in duplicate,
filed in the office of the county clerk and one in the
k. If elected or appointed to fill a vacancy, at the
any new town, he shall file such undertaking and
the oath of office, and enter upon the duties of
days after notice of his election or appointment. If
he shall take his oath of office until he shall have
with the county clerk.

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Justice as pound-master.

chosen or appointed to the office of pound-master
he shall forfeit to the town the sum of ten dollars

110.

Town superintendent of highways.

superintendent of highways shall, within ten days after
or appointment, execute an undertaking with two com-
proved by the supervisor of his town, to the effect
discharge his duties as such commissioner, which undertaking
to the supervisor, and filed by him in the office of the
days thereafter



ment; and annually in the month of April in each year thereafter an overseer of the poor shall be appointed by the town board of such town for the term of one year from the first day of May next following such month of April. Each overseer of the poor so appointed shall execute and file with the town clerk an official undertaking in such form and for such sum as the town board may by resolution require and approve. An overseer of the poor, so appointed, shall not hold any other town office during the term for which he is so appointed, and if he shall accept an election or appointment to any other town office he shall immediately cease to be an overseer of the poor. If a vacancy shall occur in the office of an overseer of the poor, so appointed, such vacancy shall be filled by the town board, by appointment, for the balance of the unexpired term. The compensation of an overseer of the poor so appointed, shall be fixed by the town board of such town, but shall not exceed, in any one year, the sum of one thousand dollars, and shall be a town charge. At any subsequent town meeting after the expiration of three years from the adoption of a resolution by any town to appoint an overseer of the poor, the electors of the town may determine by ballot to thereafter elect one or more overseers of the poor, and if they determine so to elect, then at the next biennial town meeting thereafter one or more overseers of the poor shall be elected in pursuance of the laws regulating the election of overseers of the poor, and the term or terms of the overseer or overseers first so elected shall commence upon the expiration of the term of office of the overseer of the poor last theretofore appointed in pursuance of law, and shall expire as though each such term commenced at the time of election; and their successors shall thereafter be elected in pursuance of law.

In each town having a population of twenty thousand or over, the town board may fix the compensation of the overseer of the poor at not to exceed twelve hundred dollars per year, and which shall be a town charge; and in any town where there is more than one overseer of the poor, one of whom shall be a resident of a village of over ten thousand inhabitants, in fixing compensation the town board may take this into consideration, and a larger salary may be fixed for the overseer of the poor so residing in said village.

The compensation so fixed shall be taken and accepted by such overseer of the poor in lieu of any per diem or fees from the town from the time such salary shall go into effect.

Town Law, § 112; amended by L. 1912, ch. 203.

Undertaking of overseer of the poor.

Every person elected or appointed overseer of the poor in any town shall, within ten days after being notified of his election or appointment, execute an undertaking with one or more sureties, to be approved by the supervisor of his town, to the effect that he will faithfully discharge the duties of his office, and will pay according to law all moneys which shall come into his hands as such overseer, which undertaking shall be delivered to the supervisor and filed by him in the office of the town clerk within ten days thereafter.

Town Law, § 113.

Collector's undertaking.

Every person elected or appointed to the office of collector, before he enters upon the duties of his office, and within eight days after he receives notice of the amount of taxes to be collected by him, shall execute an undertaking with two or more sureties, to be approved by the supervisor, to the effect that he will well and faithfully execute his duties as collector, pay over all moneys received by him, and account in the manner and within the time provided by

TOWN MEETINGS AND TOWN OFFICERS.

Board of town auditors.

The town shall appoint some suitable and competent persons to be the board of town auditors until the next annual meeting occurring in the board of town auditors until the next annual meeting.

Board of town auditors.

At the next annual town meeting, after the expiration of five years from the last annual town meeting, the electors of the town shall elect a board of town auditors, the electors of the town shall have the power to abolish such board in the same manner as they have power to abolish such board; and thereupon such board shall be dissolved.

Board of trustees of burial grounds.

The town may, at a biennial town meeting, choose three persons to be the board of trustees of any burial grounds within the limits of the town, as such electors may designate, and direct the town to convey by deed to such board of trustees, and for the purposes hereinafter mentioned the lands and buildings now owned by the town, and also any other lands that may be hereafter acquired by the town for the purpose of enlarging such grounds. Such trustees shall hold office for two years.

Such boards of trustees and all boards of trustees created, pursuant to chapter forty six of the laws of the state of New York, are hereby declared to be corporate bodies, and the board of trustees of the cemetery for which they are created shall be capable of suing and being sued as such, and of holding and bequeathing of personal property for the care and maintenance of the cemetery under their charge, or any lot therein.



TOWN MEETINGS IN COUNTIES OF BETWEEN FOUR HUNDRED THOU- SAND AND SIX HUNDRED THOU- SAND INHABITANTS.

Time of meeting; certificates of nomination.

Town meetings at which town officers shall be elected in any county of the state having a population of over four hundred thousand inhabitants and less than six hundred thousand inhabitants, according to the last state or federal enumeration, shall be held biennially on the first Tuesday after the first Monday in November in each odd-numbered year, at the same places as general elections in such towns are held. No person shall be entitled to vote at any such town meeting or election unless he is registered and entitled to vote at the general election held at the same time that such town meeting is held. All elective town officers shall be elected at such general election in the same manner and on the same ballot as other officers who may be elected thereat. Certificates of nomination of candidates for a town office in any such towns shall be in duplicate, one of which shall be filed with the town clerk of the town, and the other with the commissioner of elections of the county wherein such town is located, and if nominated by a political party, at least twenty days and not more than thirty days before such town meeting and election is held, or, if independent nominations, at least fifteen days and not more than thirty days prior thereto. The ballots prepared by the commissioner of elections shall include the names of all candidates nominated for town officers in any such towns.

Town Law, § 520.

Ballots.

Ballots for the submission of questions or propositions relating to town affairs shall be prepared and furnished by the officer charged with the duty of preparing the official ballots for candidates, as provided in the election law. Such ballots shall be distributed by the town clerk at the same time and in the same manner as are other ballots to be voted at a general election. It shall be the duty of each town clerk's in any such county to file with the commissioner of elections a certified copy of all town propositions to be submitted to the electors of his town at the next biennial town meeting held pursuant to this article. An additional ballot box shall be provided, marked "box for town propositions," in which shall be deposited the ballots cast on town propositions or questions, except in election districts where the use of a voting machine has been authorized. In all such districts it shall be lawful for the

MEETINGS AND TOWN OFFICERS.

be printed on the same ballots with proposed amendment or other propositions.

At any such biennial town meeting and election the inspectors of election shall proceed to canvass the votes for the several town officers, and for and against all town matters submitted to the voters of such town in the election during which and election was held, in the same manner as the inspectors of election shall perform the same duties with respect to the canvass of the vote and the filing of the returns thereof for such other matters pertaining to the determination of the same as is now provided by law, with respect to the canvass at a general election. All provisions of law relating to the canvass at a general election by the county board of canvassers, clerical errors, the review of the determination by such board, and all other matters pertaining to the canvass of the vote at a general election, shall be applicable to the canvass of all votes for town officers and propositions. The secretary of the board of county canvassers shall transmit to the clerk of each town therein the determination of the county board of canvassers as to the election of town officers and propositions voted for at the town meeting of such town. The secretary of the board of county canvassers shall transmit to each person declared by the board to be elected to a town office therein, a certificate



TOWN MEETINGS IN CERTAIN COUNTIES. 451

of January next succeeding their election, and all persons appointed by a town board or other competent authority to fill a vacancy in the office of justice of the peace shall serve until and including the thirty-first day of December following the next succeeding biennial town meeting. The collectors elected at such town meetings and elections shall enter upon the discharge of their duties after their predecessors have completed the duties of their offices, in respect to the collection of taxes and returns thereof, as now prescribed by law.

Town Law, § 523.

MEETINGS IN COUNTIES
BETWEEN ONE HUNDRED
AND SIXTY THOUSAND
AND ONE HUNDRED
AND SIXTY THOUSAND
INHABITANTS.

Issuing certificates of nomination.

In meeting or election at which town officers shall be
elected in the state having a population of over one hundred
thousand and less than one hundred and sixty thousand inhabitants,
the first meeting or election next preceding April twenty-eight, eighteen
hundred and nine, shall be held on the first Tuesday after the first day
of the year nineteen hundred and nine, and biennially thereafter
on the first Tuesday after the first day of the year as general elections in such towns are held. It
shall be the duty of the town clerk to issue certificates of nomination to the persons
qualified to vote at any such town meeting and election and to the persons
qualified to vote at the general election held at the same time.

**Canvass of votes.**

At the close of the polls at any such biennial town meeting and election in any such town the inspectors of election shall proceed to canvass the votes for the candidates for the several town offices, and for and against all town propositions duly submitted to the voters of such town in the election districts where such meeting and election was held, in the same manner as the votes for other candidates and propositions cast at the general election are canvassed. The inspectors of election shall perform the same duties with respect to the canvass of the vote and the filing of the returns thereof for such town officers, and all other matters pertaining to the determination of the result of the election, as is now provided by law with respect to the canvass and return of the votes cast for other officers elected at the general election held at the time of the holding of such town meeting and election. The county board of canvassers shall canvass the votes cast at any such town meeting and election for town officers and propositions voted upon at any such town meeting and election, in the same manner as is provided by law for the canvass of votes cast at general elections. All provisions of law relating to the canvass of votes cast at a general election by the county board of canvassers, to the correction of clerical errors, the review of the determination by such board of canvassers, and all other matters pertaining to the canvass of the votes cast at a general election, shall be applicable to the canvass of all votes for such town officers and propositions. The county clerk of any such county shall transmit to the clerk of each town therein a certified copy of the determination of the county board of canvassers as to the election of each town officer and proposition voted for at the town meeting and election held in such town. The county clerk of any such county shall transmit to each person declared by the board of canvassers thereof to be elected to a town office therein a certificate of the determination of such board. Upon the receipt by the town clerk of a certified copy of the certificate of the determination of the county board of canvassers hereinbefore mentioned, the town clerk and justices of the peace shall meet and appoint in writing the inspectors of election as required by law. No list of nominations of candidates for town offices to be filed at any such biennial town meeting and election, or the result of the official canvass of the votes cast thereat, shall be required to be published. All the provisions of the election law not inconsistent with the provisions of this article shall apply to and govern town meetings and elections held as provided herein.

Town Law, § 532.

Officers to be elected.

There shall be elected at the town meeting and election to be held in each town in any such county on the first Tuesday after the first Monday in November, in the year nineteen hundred and nine, and biennially thereafter, one supervisor, one town clerk, three assessors, one collector, one or two overseers of the poor, not more than five constables, and two inspectors of election for each election district, all of whom shall hold office for a term of two years beginning on the first day of January next succeeding. There shall also be elected a town superintendent of highways unless the town shall have adopted a resolution that thereafter the town superintendent shall be appointed by the town board as provided in section forty-one of the highway law. The town superintendent's term of office shall begin on the Thursday succeeding

TOWN MEETINGS AND TOWN OFFICERS.

be for a term of two years. There shall also be elected at the same time and election and biennially thereafter, two justices of the peace for a term of four years, beginning on the succeeding first day of January. At the collector elected at any such town meeting in nineteen hundred and eleven and biennially thereafter shall take office immediately upon election and qualification as prescribed by law. But the collector in office for the current term shall complete the duties of his office in the collection of taxes, and the payment and return thereof, upon receipt thereof by him during his term of office, notwithstanding the expiration of his term of office by his successor.

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TOWN MEETINGS IN COUNTIES OF BETWEEN ONE HUNDRED AND THIRTY THOUSAND AND ONE HUN- DRED AND FIFTY THOUSAND IN- HABITANTS.

Time of meeting; certificates of nomination.

The next town meeting or election at which town officers shall be elected in any county of the state having a population of over one hundred and thirty thousand and less than one hundred and fifty thousand inhabitants, according to the federal enumeration next preceding February twenty-second, nineteen hundred and one, shall be held on the first Tuesday after the first Monday of November in the year nineteen hundred and nine, and biennially thereafter at the same places as general elections in such towns are held. No person shall be entitled to vote at any such town meeting and election unless he is registered and entitled to vote at the general election held at the same time that such town meeting is held. All elective town officers shall be elected at such general election in the same manner and on the same ballot as other officers who may be elected thereat. Certificates of nomination of candidates for town office in any such towns shall be in duplicate, one of which shall be filed with the town clerk of the town, and the other with the clerk of the county wherein such town is located, and if nominated by a political party, at least twenty days and not more than thirty days before such town meeting and election is held, or, if independent nominations, at least fifteen days and not more than thirty days prior thereto. The ballots prepared by the county clerk shall include the names of all candidates nominated for town offices in any such towns. The county clerk shall apportion to and charge the several towns in any of such counties with their respective proportionate shares of the expense of the preparation and distribution of such ballots.

Town Law, § 540.

Ballots.

Ballots for the submission of questions or propositions relating to town affairs shall be prepared and furnished at the expense of the town by the clerk thereof, as provided in the election law. Such ballots shall be distributed by the town clerk at the same time and in the same manner as are other ballots to be voted at a general election.

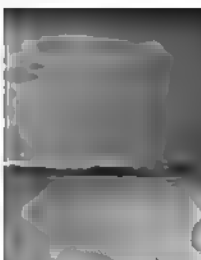
Town Law, § 541.

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MEETINGS IN COUNTIES BETWEEN ONE HUNDRED AND TWENTY THOUSAND AND OVER AND THIRTY THOUSAND INHABITANTS.

§ 1. certificates of nomination.

§ 1. To be held in any county of the state, having a population of one hundred and twenty thousand and less than one hundred thousand inhabitants, according to the federal enumeration of 1900, on the first Tuesday of November in the year nineteen hundred and one, and thereafter, shall be held at the same time and place at which town meetings are held. No person shall be eligible to vote at the general election unless he is qualified to vote at the town meeting and general election unless he is qualified to vote at the general election held at the same time and place as the town meeting is held. All elective town officers shall be elected at the same time and place as the town meeting is held.



whole number of candidates thereon and the amount of such expense so apportioned respectively to such town and the county shall be a charge thereon. The expense of preparing and furnishing the official ballots and sample ballots for the submission of town propositions or questions shall be a charge upon the town for which said ballots are furnished. The county clerk shall also furnish inspectors' and ballot clerks' return sheets for making the returns of the election of town officers and on the vote on town propositions or questions, and stationery and supplies which are usually provided by the town clerk for town meetings held at other times than on a general election day. The county clerk of each county not salaried shall be paid by such county a reasonable compensation for his services in carrying out the provisions of this article, to be fixed by the board of supervisors of the county.

Town Law, § 551.

Canvass of votes.

At the close of the polls at any such biennial town meeting and election in any such town the inspectors of election shall proceed to canvass the votes for the candidates for the several town offices, and for and against all town propositions duly submitted to the voters of such town in the election districts where such meeting and election was held, in the same manner as the votes for other candidates and propositions cast at the general election are canvassed. The inspectors of election shall perform the same duties with respect to the canvass of the vote and the filing of the returns thereof for such town officers, and all other matters pertaining to the determination of the result of the election, as is now provided by law with respect to the canvass and return of the votes cast for other officers elected at the general election held at the time of the holding of such town meeting and election. The county board of canvassers shall canvass the vote cast at any such town meeting and election for town officers and propositions voted upon at any such town meeting and election, in the same manner as is provided by law for the canvass of the votes cast at a general election. All provisions of law relating to the canvass of votes cast at a general election by the county board of canvassers, to the correction of clerical errors, the review of the determination by such board of canvassers, and all other matters pertaining to the canvass of the votes cast at a general election, shall be applicable to the canvass of all votes for such town officers and propositions. The county clerk of any such county shall transmit to the clerk of each town therein a certified copy of the determination of the county board of canvassers as to the election of each town officer and proposition voted for at the town meeting and election held in such town. The county clerk of any such county shall transmit to each person declared by the board of canvassers thereof to be elected to a town office therein, a certificate of the determination of such board. Upon the receipt by the town clerk of a certified copy of the certificate of the determination of the county board of canvassers hereinbefore mentioned, the town clerk and the justices of the peace shall meet and appoint in writing the inspectors of election as required by law. No list of nominations of candidates for town offices to be filled at any such biennial town meeting and election, or the result of the official canvass of the votes cast thereat, shall be required to be published. All the provisions of the election law not inconsistent with the provisions of this article shall apply to and govern town meetings and elections held as provided therein.

Town Law, § 552.

MEETINGS IN COUNTIES
BETWEEN SEVENTY-ONE THOUSAND
AND SEVENTY-FIVE THOUSAND
INHABITANTS.

Section 1. Town meetings; certificates of nomination.

Any town meeting at which town officers shall be elected is any town having a population of over seventy-one thousand and under seventy-five thousand inhabitants, according to the census of the year nineteen hundred, shall be held on the first Tuesday in November in the year nineteen hundred and thereafter, at the same places as general elections is held. No person shall be entitled to vote at any such town meeting unless he is registered and entitled to vote at the general election at the same time that such town meeting is held. All elective officers shall be elected at such general election in the same manner as other officers who may be elected thereat. Certificates of nomination for a town office in any such towns shall

**Canvass of votes.**

At the close of the polls at any such biennial town meeting and election in any such town the inspectors of election shall proceed to canvass the votes for the candidates for the several town offices, and for and against all town propositions duly submitted to the voters of such town in the election districts where such meeting and election was held, in the same manner as the votes for other candidates and propositions cast at the general election are canvassed. The inspectors of election shall perform the same duties with respect to the canvass of the vote and the filing of the returns thereof for such town officers, and all other matters pertaining to the determination of the result of the election as is now provided by law, with respect to the canvass of the votes cast at a general election. All provisions of law relating to the canvass of votes cast at a general election by the county board of canvassers, to the correction of clerical errors, the review of the determination by such board of canvassers, and all other matters pertaining to the canvass of the votes cast at a general election, shall be applicable to the canvass of all votes for such town officers and propositions. The county clerk of any such county shall transmit to the clerk of each town therein a certified copy of the determination of the county board of canvassers as to the election of each town officer and proposition voted for at the town meeting and election held in such town. The county clerk of any such county shall transmit to each person declared by the board of canvassers thereof to be elected to a town office therein, a certificate of the determination of such board. No list of nominations of candidates for town offices to be filled at any such biennial town meeting and election, or the result of the official canvass of the vote cast thereat, shall be required to be published. All the provisions of the election law not inconsistent with the provisions of this article shall apply to and govern town meetings and elections held as provided herein.

Town Law, § 562.

Officers to be elected.

There shall be elected at the town meeting and election to be held in each town in any such county on the first Tuesday after the first Monday of November, in the year nineteen hundred and nine, and biennially thereafter, one supervisor, one town clerk, three assessors, one collector, one or two overseers of the poor, and not more than five constables, for the term of two years commencing on the first day of January, succeeding their election. There shall also be elected a town superintendent of highways unless the town shall have adopted a resolution that thereafter the town superintendent shall be appointed by the town board as provided in section forty-one of the highway law. The town superintendent's term of office shall begin on the Thursday succeeding his election and be for a term of two years. There shall also be elected at such town meeting and election and biennially thereafter, two justices of the peace for terms of four years, beginning on the succeeding first day of January. The collectors elected at such town meetings and elections shall enter upon the discharge of their duties after their predecessors have completed the duties of their offices, in respect to the collection of taxes and returns thereof, as now prescribed by law.

Town Law, § 563.



MEETINGS IN COUNTIES
BETWEEN FIFTY THOUSAND AND
ONE HUNDRED THOUSAND INHABITANTS.
S.

g; certificates of nomination.

meeting at which town officers shall be elected in any
town having a population of over fifty thousand inhabitants
and less than one hundred thousand inhabitants, according to the federal enumer-
ation of 1900, shall be held on the first Tuesday after
the first Monday in the year nineteen hundred and nine and bi-
ennially thereafter in the same places as general elections in such towns.
Every citizen of such town shall be entitled to vote at any such town meeting or
may be entitled to vote at the general election held at the same place at which
such town meeting is held. All elective town officers shall be elected at
such general election in the same manner as other officers.



propositions duly submitted to the voters of such town in the election districts where such meeting and election was held, in the same manner as the votes for other candidates and propositions cast at the general election are canvassed. The inspectors of elections in each election district shall make a full and true statement of the whole number of votes cast for and against each candidate for a town office and for and against each town proposition voted upon at such town meeting. Such statement shall be in the same form as statements by such inspectors of other votes cast at general elections, and shall be signed by the inspectors and delivered by one of their number, selected by them for that purpose, to the town clerk and justices of the peace of the town, who shall convene and receive the same on Thursday next following such town meeting at ten o'clock in the forenoon. Such justices and town clerk shall at such time recanvass such votes from the statements of the inspectors of the several election districts so delivered to them, and read and enter the results in the same manner as required of them by section sixty-four. No list of nominations of candidates for town offices to be filled at any such biennial town meeting and election, or the result of the official canvass of the vote cast thereat, shall be required to be published. All the provisions of the election law not inconsistent with the provisions of this article shall apply to and govern town meetings and elections held as provided herein.

Town Law, § 572.

Officers to be elected.

There shall be elected at the town meeting and election to be held in each town in any such county on the first Tuesday after the first Monday of November, in each odd-numbered year, one supervisor, one town clerk, three assessors, one collector, one or two overseers of the poor and not more than five constables. The persons first elected to the various offices above mentioned shall enter upon the discharge of their duties on the fourth day of March, nineteen hundred and eight, and serve until and including March third, nineteen hundred and ten. Their successors shall be elected at the biennial election and town meeting held in nineteen hundred and nine and biennially thereafter, for the term of two years commencing on the fourth day of March succeeding their election. There shall also be elected a town superintendent of highways unless the town shall have adopted a resolution that thereafter the town superintendent shall be appointed by the town board as provided in section forty-one of the highway law. The town superintendent's term of office shall begin on the Thursday succeeding his election and be for a term of two years. There shall also be elected at such town meeting and election and biennially thereafter, two justices of the peace for terms of four years, beginning on the succeeding first day of January.

Town Law, § 573.

Voting machines.

Nothing herein contained shall prevent the use of voting machines as provided for by the election law.

Town Law, § 574.



MEETINGS IN COUNTIES BUCKLAND, ORANGE AND SULLIVAN.

Meeting.

Meetings and elections of the towns in the counties of
Sullivan shall be held on the first Tuesday after the first
Monday of the year nineteen hundred and nine and biennially
thereafter as general elections in such towns are held.

Polls shall be open for the purpose of voting for
town officers as the polls are kept open upon election day for the
purpose of electing to be elected at such general election. No person
shall vote at any such town meeting unless he is registered
at such general election.

§ 580.

Meeting; ballots; certificates of nomination.

Meetings and elections in such towns shall hereafter
be held on districts, to be conducted by the inspectors
of such towns. Town officers shall be elected and voted for in
the same manner and on the same ballot as other
officers elected for the same term of office.



to the justices of the peace and town clerk of the town, who shall convene and receive the same at the office of the town clerk on the second day next following the town meeting at ten o'clock in the forenoon. Such justices and clerk shall immediately recanvass such votes upon the statements so made and delivered by the inspectors of the several election districts. The town clerk shall enter in his record a statement of the number of votes cast for each candidate, and for and against all town propositions duly submitted to the voters of such town in the several districts in his town, and declare in such record the propositions shown to be adopted, and the officers shown to be elected by such statement, or appointed as herein prescribed. Such record shall be signed by him and the justices acting as such-canvassers. Inspectors of election in towns in the counties of Rockland, Orange and Sullivan shall be appointed by the town boards of such towns as provided in the election law. The provisions of the election law relating to inspectors of election shall apply to inspectors of elections in such towns notwithstanding the provisions of this article which are inconsistent therewith. All inspectors of election of such towns in office when this article takes effect shall hold office and continue to serve as such until the expiration of the terms for which they were elected or appointed.

Town Law, § 582.

Officers to be elected.

At the town meetings to be held in such towns at the time of the general election in the year nineteen hundred and nine, there shall be elected one supervisor, one town clerk, one collector, one or two overseers of the poor, and not more than five constables for terms of two years each, beginning on the succeeding first day of January. At the biennial town meetings to be thereafter held in such towns in the odd numbered years, all of such officers shall be elected and shall hold office for the terms of two years beginning on the first day of January succeeding their election. There shall also be elected a town superintendent of highways unless the town shall have adopted a resolution that thereafter the town superintendent shall be appointed by the town board as provided in section forty-one of the highway law. The town superintendent's term of office shall begin on the Thursday succeeding his election and be for a term of two years. The collectors elected at such town meetings shall enter on the discharge of their duties after their predecessors shall have completed the duties of their offices in respect to the collection of taxes and the return thereof as now prescribed by law.

Town Law, § 583.

Justices of the peace, assessors and town superintendents of highways.

At the town meetings to be held in such towns at the time of the general election in the year nineteen hundred and nine two justices of the peace shall be elected for terms of four years, beginning on the succeeding first day of January, and at each biennial town meeting thereafter there shall be elected two justices of the peace for a like term, beginning on the succeeding first day of January. At the town meeting to be held at the time of the general election in the year nineteen hundred and nine and biennially thereafter, three assessors shall be elected for terms of two years, beginning on the succeeding first day of January.

Town Law, § 584.



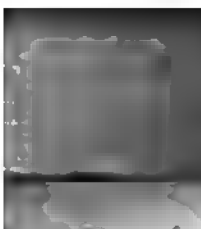


PART 9.

VILLAGE OFFICERS AND ELECTIONS.

MISCELLANEOUS PROVISIONS.





INCORPORATION.

First election of officers after incorporation, when held.

An election of officers of the village shall be held in either of the following cases:

1. After the lapse of ten days from the filing of the certificate of election showing the incorporation, unless an appeal has been taken therefrom.
2. If such an appeal has been taken, after the lapse of ten days from the filing of the decision of the county court sustaining the election, unless an appeal has been taken therefrom.
3. If an appeal has been taken from the decision of the county court, after the filing of the decision of the appellate division of the supreme court sustaining the election.

Village Law, § 26.

Appointment of village clerk; inspectors of election.

Within five days after the right of an election of officers is complete, the town clerk with whom the proposition for incorporation was filed shall appoint the following officers:

1. A village clerk, who shall serve until his successor is chosen.
 2. Three qualified electors of the village to serve as inspectors of such election, not more than two of whom shall be members of the same political party.
- The town clerk shall file such appointments in his office and deliver a copy thereof to each of the persons so appointed, who, within three days after their appointment, shall file with such town clerk the constitutional oath of office.

Village Law, § 27.

Notice of election of officers.

Within five days after his appointment, the village clerk shall give notice for an election of officers. Such notice shall be posted in ten conspicuous places in the village and published in a newspaper therein, if any. It shall also contain the following particulars:

1. The place in such village where the election is to be held.
2. The date of such election, which shall be not less than ten nor more than fifteen days after the posting of such notice.
3. The hours for holding such election, which shall be for the space of at least four consecutive hours between ten o'clock in the forenoon and four o'clock in the afternoon.
4. The officers to be elected.

Village Law, § 28.

VILLAGE OFFICERS AND ELECTIONS.

oted; terms of office.

Officers shall be chosen at such first election: A president, treasurer and a collector.

If held after the date of an annual election under this chapter first day of October, the terms of all such officers shall be for the current official year. If such election be held after the first day of September, and on or before the date fixed for the next annual election, the president, one trustee, the treasurer and the collector shall hold office until the end of the next official year, and one trustee shall hold office for the next two official years.

The terms of officers elected under this section shall commence as soon as

1.

qualified to vote at town meetings and who have been residents of the village for thirty days prior to such election may vote for such officers. The clerk of the town or any two of them shall conduct the election in accordance with the provisions of this chapter relating to the election of village officers. The clerk shall make a full and correct record of the election, including the canvass and certification of the result of the election, so far as practicable.

2.



OFFICERS AND ELECTIONS.

Classification of villages.

Villages are divided into classes according to their population as shown by the latest enumeration, village, state or federal, as follows:

First class. — Villages containing a population of five thousand or more.

Second class. — Villages containing a population of three thousand and less than five thousand.

Third class. — Villages containing a population of one thousand and less than three thousand.

Fourth class. — Villages containing a population of less than one thousand.

Village Law, § 40.

Qualifications of voters.

A voter at a village election, other than the first, must possess the following qualifications:

1. To entitle him to vote for an officer, he must be qualified to vote at a town meeting of the town in which he resides, and must have resided in the village thirty days next preceding such election.

2. To entitle him to vote upon a proposition, he must be entitled to vote for an officer, and he must also be the owner of property in the village assessed upon the last preceding assessment-roll thereof. A woman who possesses the qualifications to vote for village officers, except the qualification of sex, who is the owner of property in the village assessed upon the last preceding assessment-roll thereof, is entitled to vote upon a proposition to raise money by tax or assessment, or for the dissolution or change of name of the village, or for the borrowing of money upon the bonds or other obligations of the village, payable in future fiscal years, for the purpose of purchasing, constructing and maintaining the village improvements specified in section one hundred and twenty-eight.

Village Law, § 41, as amended by L. 1910, ch. 138; L. 1915, ch. 499, in effect May 3, 1915.

Eligibility to office.

A president, or trustee, or a fire, water, light, sewer, cemetery or police commissioner must, at the time of his election, be the owner of property assessed to him on the last preceding assessment roll, and must also be the owner during the term of his office of property assessed to him on the assessment roll of said village; except that in a village of the fourth class, such an officer must, at the time of his election or appointment and during his term, be the owner of property within such village assessed upon the last preceding assessment roll, and except that a president or trustee elected at the first village election must be the owner of property assessed upon the last preceding town assessment roll. Any resident elector is eligible to any other village office. A resident woman, who is a citizen of the United States, and of the age of twenty-one years, is eligible to the office of village clerk or deputy clerk. A person shall not hold two village offices at the same time, except the offices of collector and police constable or water and light commissioner; and except that village trustees may also be water commissioners.

Village Law, § 42, as amended by L. 1913, ch. 53; L. 1915, ch. 182, in effect March 30, 1915.

VILLAGE OFFICERS AND ELECTIONS.

mitted at an annual election to have the board of trustees, act as assessors. If twenty-five electors qualified shall present a petition to the board of trustees, it shall submit such proposition to the next annual election to be submitted under this chapter, and if elected or appointed, except that such village shall not assessors whose terms of office shall expire with the term in office having the longest term to serve, after the committee therefrom, shall act as assessors.

§ 48.

Wards.

Containing not more than eight hundred qualified electors shall constitute a single election district for village elections. If at an annual election the number of votes cast for village officers shall exceed eight hundred, the board of trustees may by resolution, adopted at least thirty days before the election, divide such village into election districts, each containing not more than eight hundred voters. Such resolution shall specify the number of electors in each district, but a ward shall not be divided in the formation of two or more election districts wholly within such ward. A copy of such resolution shall be published and posted with a notice of such election.

§ 49.



MISCELLANEOUS PROVISIONS

474-a

election law that no registration shall be required for village elections shall not apply to such village. If such proposition be adopted the inspectors of election of each election district of such village shall meet on the tenth day preceding each election in such village at the place in such election district where the election is to be held, and at such hours as the board of trustees or such members thereof as are in office, shall by resolution adopted at least twenty days before every registration day designate, which shall include at least four consecutive hours between sunrise and eight o'clock in the evening, for the purpose of preparing a register for such election, which shall, so far as practicable, be in the same form as the register of voters in such election district for the last preceding general election. The town clerk of the town shall, upon application, deliver to such inspectors the register of the last preceding general election in any election district in which such election district is wholly or partly situated. Such inspectors shall, for the annual village election, prepare a register for their election district by copying from the town register the names of all persons qualified to vote at such election in such district which appear upon the register of voters for the last preceding general election in such election district, except the names of such voters as are proven to the satisfaction of such inspectors to have ceased to be voters in such district since their names were placed upon such register, and shall add to such register the names of all persons known or proven to the satisfaction of such inspectors to be then or thereafter entitled to vote at the election for which such registration is made. Such inspectors shall in like manner prepare a register for each special election in such village, except that the register for the annual election in such village shall be used by them as the basis therefor. All the provisions of the election law in relation to the registration of voters shall, so far as practicable, apply to the registration provided for by this section. The village clerk shall furnish the necessary blank books and blanks at the expense of such village. Elections in such village shall be conducted in the manner provided by this chapter and the election law, except that no person shall be entitled to vote thereat whose name does not appear upon the register of the election district in which he claims to be entitled to vote.

Village Law, § 51-a, added by L. 1910, ch. 423; amended by L. 1911, ch. 427.

Inspectors of election.

If a village constitutes but one election district and a proposition for the registration of voters has not been adopted pursuant to section fifty-one-a of this chapter, the trustees, president and clerk of the village, after the first election of village officers, or such of them as are in office when an election takes place, shall be inspectors of election for the village, and one or more of them shall preside at all elections. If neither a trustee, the president nor the clerk shall be present, the electors may appoint a chairman to preside, who shall have all the powers of an inspector. If a village is divided into election districts and a proposition for the registration of voters has not been adopted pursuant to section fifty-one-a of this chapter, the board of trustees



VILLAGE OFFICERS AND ELECTIONS.

at least thirty days before the annual election, appointment for each district to preside at all village elections. Inspectors are appointed. Such inspectors shall not both be members of the same political party. The board may also appoint for each district a ballot clerk. If a proposition for the registration of voters in any village pursuant to section fifty-one-a of this chapter is adopted by the village shall, annually, at least twenty days before the annual election, appoint four inspectors of election for such village, or if there is more than one election district, four inspectors of election for each district, to preside at all village elections until the next annual election. Such appointments shall be made from lists prepared and filed with the village clerk by the two political parties entitled by law to representation on a board of election officers, or from lists which have been filed as hereinafter provided. The village committee shall determine the highest number of votes and the village committee shall determine the next highest number of votes at the last preceding election. Each party shall prepare a list containing the names of at least two persons to serve as inspectors of election, for each election district. Each list shall be certified by the chairman of such committee and filed with the village clerk. From each of the two lists so filed, if a village shall appoint two persons who possess the qualifications required by law for election officers. If in any village more than one political party is recognized on behalf or in the name of the same political party, the party which is accepted which is certified by the proper officer or officers of such party which was recognized as regular by the last preceding annual election of such party; or if no such convention was held during the year, the party or officer or officers of the faction of such party, which



elections are special elections. A village of the second, third or fourth class may by the adoption at an annual or special election of a proposition therefor, hold its annual election on the third Tuesday in June, unless a town meeting of a town in which any part of the village is situated, or a general election, shall be held on such day, in which case the annual election shall be held upon the next day thereafter. A special election for the adoption of such a proposition may be held at any time. The official year in such village shall begin at noon on the first Monday after the said election. All villages which have heretofore by resolution duly adopted designated any other Tuesday in June for their annual election shall hereafter hold such annual election on the third Tuesday of June except as above stated. The board of trustees or such members thereof as are in office shall by resolution, adopted at least ten days before every village election, designate the hours of opening and closing the polls thereof, which shall include at least four consecutive hours between sunrise and eight o'clock in the evening. The resolution shall also designate the place of holding the election, or if there is more than one election district in the village, the place of holding the election in each district. The board or such members thereof as are in office also shall, at least ten days before the election, cause notice thereof to be published at least once in the official paper, if such paper is published in the village, and a printed copy thereof conspicuously posted in at least six public places in the village, specifying the time and place or places, of holding the election, the hours of opening and closing the polls thereof, the offices, if any, and the term to be filled, and setting forth in full all propositions to be voted upon. If the board or such members thereof as are in office neglects to appoint the place or places for the annual election, the election shall be held at the place or places of the last preceding annual election, and if it neglects to appoint the hours of opening and closing the polls thereof, such hours shall be the same as at the last preceding annual election. An annual election of the village officers shall not be invalid because of a failure to give such notice. A vote upon a proposition shall be void unless due notice of the election has been given. If a village, constituting a single election district, is divided into wards and elects trustees by wards, separate ballot boxes shall be provided for each ward, and the ballots of the electors residing therein shall be deposited in the ballot box designated for such ward.

Village Law, § 52.

Canvass of annual election.

The inspectors of election of each election district shall, immediately upon the closing of the polls of each annual election, proceed to canvass the votes cast thereat, and shall complete such canvass without adjournment. They shall, before nine o'clock in the forenoon of the following day, file with the village clerk their certificate setting forth the holding of the election, the total number of votes cast for each office, the number of votes cast for each person for such office, the total number of votes cast upon each proposition voted upon, and the number cast for and against it. If the village contains more than one election district, the board of trustees of such village shall meet at its usual place of meeting, at nine o'clock in the forenoon of the next day after the election. The village clerk shall produce at such meeting the returns of the inspectors of election, and the board of trustees shall canvass such returns, and file in the office of the village clerk a certificate declaring



VILLAGE OFFICERS AND ELECTIONS.

person eligible and receiving the highest number of votes shall be elected therein. If two or more persons receive an equal number of votes for the same office, the board of trustees shall determine which of them shall be deemed elected.

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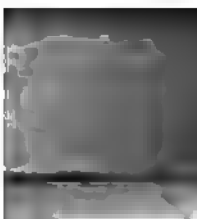
Ignate terms.

At any village officers, heretofore or hereafter held in any year in account of the failure of the electors to designate the respective terms of office of persons to be elected therein, shall be deemed to be elected to different terms; but the persons so to be elected to such offices shall receive the highest number of votes, shall be deemed to be elected on a ballot containing the names of more than one person to the same office, and not designating their respective terms, shall be deemed to be elected for the longest term, the second, for the next longest term, and the inspectors of election shall count the ballots accordingly. If the votes shall not be so counted, the board of trustees shall, at least twenty days before the next annual election, determine by lot which of such officers shall be deemed to have been elected thereupon such officers shall be deemed to have been elected.

54.

Place of officers.

Any fixed by law for an annual election shall have passed shall have been held thereon, the board of trustees shall, for a special election, to be held at the place of the annual election.

**Submission of propositions; special election.**

The board of trustees may, upon its own motion, and shall, upon the petition of twenty-five electors qualified to vote upon a proposition, cause to be submitted at a village election a proposition upon any question which may be lawfully decided thereat. A separate board of fire, water, light, sewer, cemetery or other commissioners may present to the board of trustees a petition, requesting the submission of a specified proposition, relating to its department, at a village election. Upon the presentation of such petition, the board of trustees shall cause the proposition to be submitted accordingly. If a petition under this section be presented after the annual election and before the first day of January following, a special election shall be called, to be held not less than ten nor more than twenty days after the presentation of such petition. If a petition be presented at any other time, and more than ten days prior to the annual election, the proposition shall be submitted at such annual election. Except for the purpose of fixing or changing the number of trustees, or for the purpose of determining whether an officer shall be thereafter elected or appointed, or the submission of a proposition to pay the additional expense of a state or county highway through the village, no special election shall be held in the months of February or March. The foregoing provisions in this section contained in respect to the time of presentation of a petition under this section and prohibiting a special election in February or March, shall not apply to villages which hold their annual election in June, but in such a village the board of trustees may, upon its own motion, submit a proposition at a special village election in April, and if such a petition be presented after the annual election, and before the first day of April following, a special election shall be called in the manner hereinbefore provided; but if a petition be presented at any other time and more than ten days prior to the annual election, the proposition shall be submitted at such annual election. Except for the purpose of fixing or changing the number of trustees, or for the purpose of determining whether an officer shall be thereafter elected or appointed, or the submission of a proposition to pay the additional expense of a state or county highway, no special election shall be held in such a village in the month of May or June. Notice of a special election for the submission of a proposition shall be given in the same manner as for an annual election. Such special election shall be held by the same officers, and conducted and the result canvassed in the same manner as an annual election.

Village Law, § 56, as amended by L. 1910, ch. 4, in effect February 4, 1910.

Votes upon propositions to be by ballot.

All votes upon a proposition submitted at a village election shall be by ballot; and, unless otherwise provided, the provisions of the election law, relating to ballots, apply to propositions submitted under this chapter.

Village Law, § 57.

Official undertakings.

The treasurer, collector, police justice, street commissioner, and such other officers as may be required by the board of trustees, shall, before they enter upon the duties of their respective offices, each execute to the village and file with the village clerk an official undertaking in such sum and with such sureties as the board of trustees shall direct and approve. The board of trustees may at any time require any such officer to file a new official undertaking for such sum and with such sureties as the board shall approve.

Village Law, § 58.

VILLAGE OFFICERS AND ELECTIONS.

chosen to a village office.

The village shall, within three days after the election or appointment of a village officer, except the first election or appointment after the village, notify each person elected or appointed of his election and of the date thereof, and that he is required to file with such clerk before entering upon the duties thereof, and, making be required of him, by or in pursuance of law, that he file the same with such clerk, and that upon his failure to do so he shall be deemed to have declined the office. If an undertaking of a village officer, by or in pursuance of law, after entering upon office, the clerk of the village shall thereupon serve upon such officer written notice that he is required to file such undertaking within ten days after the service of the notice, and that upon his failure to do so his office will become vacant.

Removals.

An officer may resign to the board of trustees, and his resignation shall be in writing, and on the delivery thereof to the village clerk, unless a time is specified for its taking effect thereafter, in which case, the resignation shall take effect at the time so specified.

By the method provided by the public officers law, an officer, or a trustee, appointed by the board of trustees of the village, may be removed by the board for misconduct, on notice to such officer given him to make his defense.

Offices.



REINCORPORATION.

Effect of reincorporation where proposition for reincorporation has been submitted.

If the proposition be adopted, the reincorporation of the village under this chapter shall take effect immediately upon the filing of the certificate of election in the office of the village clerk. From and after such filing such village shall be deemed incorporated under this chapter, and shall possess all the powers, enjoy all the privileges, and be subject to all the liabilities, in all respects and for all purposes, as if it had been originally incorporated thereunder. Such reincorporation shall not affect any action then pending or cause of action existing by or against such village, nor property rights thereof under the provisions of any law to which it was then subject. The officers of the village in office when the reincorporation takes effect shall continue to hold their offices until noon on the Monday following the date when the next annual election in such village may be held under this chapter, at which time their terms of office shall expire.

Village Law, § 303.

Determination of number of trustees.

A special election to determine the number of trustees to be elected in such village at the first annual election after such reincorporation shall be held in the month of February next preceding, in the manner and upon the notice prescribed by article three of this chapter. If the number of trustees be not determined before such first annual election the village shall elect two trustees. At such first annual election after reincorporation one-half of the trustees shall be elected for one year, and one-half for two years.

Village Law, § 304.

Reincorporation of certain villages confirmed.

All villages in the state incorporated by special laws and subject to their provisions which have attempted to reincorporate under the provisions of chapter four hundred and fourteen of the laws of eighteen hundred and ninety-seven and the acts amendatory thereof, between July one, eighteen hundred and ninety-seven, and January one, *nineteen hundred and four, and which have held their elections, elected their officers and conducted their municipal affairs under or agreeably or substantially under or substantially agreeably to the provisions of said law for the period of one year, or longer, are hereby declared to be regularly and duly incorporated villages under this chapter; and, so far as any defects, omissions or irregularities in the proceedings for

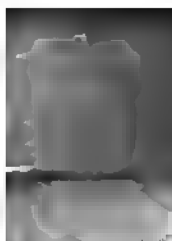
* So in original.

VILLAGE OFFICERS AND ELECTIONS.

to affect their annual and special elections and proceedings at such elections and meetings and the election of their other village officers and all the acts and proceedings of trustees and all the acts and proceedings of the annual and special elections and meetings and their elections and meetings and the election of their president and other village officers and all the acts and proceedings of trustees and all the acts and proceedings of their officers to be legal and valid; and so far as any defects in their proceedings for such reincorporation are pointed out by their presidents, trustees and other officers, such defects and other officers are hereby declared to be valid to their offices de jure until the expiration thereof.

to not affect any action or proceeding now pending

5.



PROVISIONS APPLICABLE TO VIL- LAGES WHOSE POPULATION EX- CEEDS FOURTEEN THOUSAND.

President's term of office.

In every such village the term of office of the president shall be two official years.

Village Law, § 311.

Board of police commissioners.

Every such village by adopting a proposition therefor at an annual election may establish or abolish a separate board of police commissioners composed of five members, who must at the time of their election and during their term be the owners of property assessed upon the last preceding assessment-roll of the village. If the proposition to establish such board be adopted, the board of trustees at its next annual meeting shall appoint such commissioners for the terms of one, two, three, four and five years respectively; and at each annual meeting thereafter the board of trustees shall appoint one commissioner for the full term of five years. Said board shall have all the powers and is subject to all the liabilities and must perform all the duties of the president and board of trustees so far as the same relate to the police or police department, and to the exclusion of said president and board of trustees.

Village Law, § 312.

SCCELLANEOUS PROVISIONS

of terms of officers.

Justice or an assessor in office when this chapter takes effect shall continue in office until the expiration of the term for which he was elected. Except as otherwise provided in this chapter the term of office shall expire on the Monday following the third Tuesday of January.

§ 351.

Division of villages; number of trustees; wards; election. Within thirty days after the consolidation takes effect the boards of trustees of the existing villages shall meet in joint session and determine the number of trustees prescribed by section forty-four, the number of trustees of the new village at the first election, and if such new village is of the first class, may also divide such village into wards of not more than half of the number of trustees to be elected. Such wards shall be of as nearly equal area as may be, and be of convenient size for the purpose of holding town meetings.



MISCELLANEOUS PROVISIONS.

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the same political party. Section twenty-nine of this chapter applies, so far as practicable, to the first election in the new village, except that if an election is held after the thirtieth day of September and on or before the date fixed for the next annual election, one-half of the number of trustees elected shall hold office until the end of the next official year, and one-half during the next two official years. If such village is divided into wards, two trustees shall be elected in each ward, and if the election is held after the thirtieth day of September and on or before the date fixed for the next annual election, one of such trustees shall be elected to hold office until the end of the next official year, and one to hold office during the next two official years. Section fifty-three of this chapter applies, so far as practicable, and the joint boards of trustees shall constitute the canvassing boards at such first election. The certificate of such first election shall be filed with the clerk of the new village on the day of canvass, and thereupon the terms of office of the officers of the consolidating villages shall expire and the terms of officers elected for the new village shall commence.

Village Law, § 356.





DISTRICT MEETINGS IN GENERAL.

Notice of first meeting of district.

Whenever any school district shall be formed, or two or more common school districts are consolidated as provided in section one hundred and thirty-two the district superintendent of schools, or any one or more of such district superintendents within whose districts it may be, shall prepare a notice describing such district, and appointing a time and place for the first district meeting, and deliver such notice to a taxable inhabitant of the district.

Education Law, § 190, as amended by L. 1913, ch. 129. In effect March 25, 1913.

Service of notice of first meeting of district.

It shall be the duty of such inhabitant to notify every other inhabitant of the district qualified to vote at the meeting, by delivering to him a copy of the notice of such meeting, or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least six days before the time of the meeting.

Education Law, § 191.

Second notice of first meeting of district.

In case such meeting shall not be held, and in the opinion of the school commissioner it shall be necessary to hold such meeting, before the time herein fixed for the first annual meeting, he shall deliver another such notice to a taxable inhabitant of the district, who shall serve it as provided in section one hundred and ninety-one.

Education Law, § 192.

Notice of annual meeting.

1. The district clerk of each common school district shall give notice of the time and place of the annual meeting by posting five notices of such meeting in five conspicuous places in the district five days previous to the date of such meeting. One of such notices must be posted on the front door of the school house.

2. The clerk of each union free school district shall give notice of the time and place of the annual meeting by publishing a notice once in each week for the four weeks next preceding such district meeting, in two newspapers if there shall be two, or in one newspaper if there shall be but one, published in such district. But if no newspaper shall then be published therein, the said notice shall be posted in at least twenty of the most public places in said district twenty days before the time of such meeting.

Education Law, § 193.

Time and place of annual meeting.

The annual meeting of each school district shall be held on the first Tuesday of May in each year, and, unless the hour and place thereof shall have been fixed by a vote of a previous district meeting, the same shall be held in the school house at seven-thirty o'clock in the evening. If a district possesses more than one school house, it shall be held in the one usually employed for that purpose, unless the trustees designate another. If the district possesses no school house, or if the school house shall not be accessible, then the annual meeting shall be held at such place as a trustee, or, if there

SCHOOL OFFICERS AND ELECTIONS.

The clerk, shall designate in the notice. Provided, however, in school districts whose limits do not correspond with those of a city or village the board of education may at any regular meeting duly adopted and entered upon its minutes, determine that the annual meeting of such union free school district shall be held on the first Tuesday in August; and thereafter until such determination shall be made, the annual meeting shall be held on the first Tuesday in August. Where any such district shall have heretofore or hereafter the election of the members of the board of education shall be held on the first Tuesday next following the day designated by law for holding the annual meeting of such district as provided by section three hundred and thirty-two of the Education Law, such election shall be held at the time so determined, and such determination shall be changed.

§ 124 as amended by L. 1910, chs. 140 and 442; L. 1912, ch. 232, in effect April 7, 1912.

of districts re-formed after dissolution.

Whereby the dissolution of a union free school district, as provided in section one hundred and forty-six and one hundred and forty-seven of the Education Law, shall hold their annual meetings on the first Tuesday next following the day designated by law for holding the annual meeting of such union free school district, and shall be held at the time so determined, and such determination shall be changed.

§ 125, as amended by L. 1912, ch. 129. In effect March 1, 1912.

to transact business of annual meeting.

Whereby the dissolution of a union free school district, as provided in section one hundred and forty-six and one hundred and forty-seven of the Education Law, shall hold their annual meetings on the first Tuesday next following the day designated by law for holding the annual meeting of such union free school district, and shall be held at the time so determined, and such determination shall be changed.



Special meetings in union free school districts.

1. Boards of education shall have power to call special meetings of the inhabitants of their respective districts whenever they shall deem it necessary and proper, in the manner prescribed in subdivision two of section one hundred and ninety-three of this chapter.

2. In union free school districts whose limits correspond with those of any incorporated village or city, the boards of education shall have power to call special meetings of the inhabitants of their respective districts for the purposes mentioned in section four hundred and sixty-seven, in the manner prescribed in said subdivision two of section one hundred and ninety-three.

Education Law, § 198.

Call by school commissioner of special district meeting.

When the clerk and all the trustees of a school district shall have removed from the district, or their office shall be vacant, so that a special meeting can not be called, as hereinbefore provided, the school commissioner may in like manner give notice of, and call a special district meeting.

Education Law, § 199.

Effect of want of due notice of district meetings.

The proceedings of no district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was willful and fraudulent.

Education Law, § 200.

Penalty for failure to serve notice.

Every taxable inhabitant, to whom a notice of any district meeting shall be delivered for service pursuant to any provisions of this article, who shall refuse or neglect to serve the same, as hereinbefore prescribed, shall forfeit five dollars for the benefit of the district.

Education Law, § 201.

Duty to attend district meetings.

Whenever any district meeting shall be duly called, it shall be the duty of the inhabitants qualified to vote thereat, to assemble at the time and place fixed for the meeting.

Education Law, § 202.

Qualifications of voters at district meetings.

A person shall be entitled to vote at any school meeting for the election of school district officers, and upon all other matters which may be brought before such meeting who is:

1. A citizen of the United States,

2. Twenty-one years of age,

3. A resident within the district for a period of thirty days next preceding the meeting at which he offers to vote; and who in addition thereto possesses one of the following four qualifications:

a. Owns or hires, or is in the possession under a contract of purchase of real property in such district liable to taxation for school purposes, or

SCHOOL OFFICERS AND ELECTIONS.

of a child of school age, provided such child shall have attended the district school in the district in which the meeting is held at least eight weeks during the year preceding such school meeting.

The parent, has permanently residing with him a child who shall have attended the district school for a period of at least eight weeks during the year preceding such meeting, or owns personal property, assessed on the last preceding assessment, exceeding fifty dollars in value, exclusive of such exemption.

Who shall be deemed to be ineligible to vote at any such meeting who does not have the other qualifications required by this section.

§ 203.

Case of challenge of voter.

Any person offering to vote at any school district meeting shall be challenged, by any legal voter in such district, the chairman of such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am, and have been, for the last past year, an actual resident of this school district, and am entitled to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting. If any person shall refuse to make such declaration, his vote shall not be counted.

§ 204.

Declaration or unauthorized vote.

Any person who shall make a false declaration of his right to vote, or who shall vote without making such declaration, shall be deemed to be guilty of a misdemeanor, and shall be liable to a fine of not more than five dollars.

and the disbursing officer of such moneys. If such resolution shall be adopted, such voters shall thereupon elect by ballot a treasurer for said district. Any person elected treasurer at any meeting other than an annual meeting, shall hold office until the next annual meeting after such election, and until his successor shall be elected or appointed, and thereafter a treasurer shall be elected at each annual meeting for the term of one year.

6. To fix the amount in which the collector and treasurer shall give bonds for the due and faithful performance of the duties of their offices.

7. To designate a site for a school house, or for grounds to be used for playgrounds, or for agricultural, athletic center and social center purposes, or with the consent of the district superintendent of schools within whose district the school district lies, to designate sites for two or more school houses for the district. Such designation of a site for a school house, or for such grounds, can be made only at a special meeting of the district, duly called for such purpose by a written resolution in which the proposed site shall be described by metes and bounds, and which resolution must receive the assent of a majority of the qualified voters present and voting, to be ascertained by taking and recording the ayes and noes, or by ballot.

8. To vote a tax upon the taxable property of the district, to purchase, lease and improve such sites or an addition to such sites and grounds for the purposes specified in the preceding subdivision, to hire or purchase rooms or buildings for school rooms or school houses, or to build school houses; to keep in repair and furnish the same with necessary fuel, furniture and appurtenances, and to purchase such implements, apparatus and supplies as may be necessary to provide instruction in agriculture and other subjects, and for the organization and conduct of athletic, playground and other social center work.

9. To vote a tax, not exceeding twenty-five dollars in any one year, for the purchase of maps, globes, reproductions of standard works of art, blackboards and other school apparatus, and for the purchase of text-books and other school necessities for the use of poor scholars of the district.

10. To vote a tax for the establishment of a school library and the maintenance thereof, or for the support of any school library already owned by said district, and for the purchase of books therefor, and such sum as they may deem necessary for the purchase of a book-case.

11. To vote a tax to supply a deficiency in any former tax arising from such tax being, in whole or in part, "uncollectable."

12. To authorize the trustees to cause the school-houses, and their furniture, appurtenances and school apparatus to be insured by any insurance company created by or under the laws of this state, or any other insurance company authorized by law to transact business in this state.

13. To alter, repeal and modify their proceedings, from time to time, as occasion may require.

14. To vote a tax for the purchase of a book for the purpose of recording their proceedings.

15. To vote a tax to replace moneys of the district, lost or embezzled by district officers; and to pay the reasonable expenses incurred by district officers in defending suits or appeals brought against them for their official acts, or in prosecuting suits or appeals by direction of the district against other parties.

16. To vote a tax to pay whatever deficiency there may be in teachers' wages after the public money apportioned to the district shall have been applied thereto.

* So in original.

SCHOOL OFFICERS AND ELECTIONS.

to pay and satisfy of record any judgments of a competent court have been or shall hereafter be obtained in an action against the district for unpaid teachers' wages, where the time for judgments shall have elapsed, or there shall be no intent to pay of such district, or the said judgments are or shall be of record.

Any district shall have contracted with the school authorities for school district for the education therein of the pupils residing so remote from the school house therein that they are not of school advantages during any portion of the school year thereof entitled to vote are authorized to provide by tax the conveyance of any or all pupils residing therein to the city or district with which such contract shall have been made maintained in said district, and the trustees thereof may conveyance when so authorized in accordance with such rules as they may establish, and for the purpose of defraying any in carrying out the provisions of this subdivision, they may use any portion of the public money apportioned to such district as

§ 206, as amended by L. 1910, chs. 140 and 442; L. 1913, ch. 216. In effect Apr. 7, 1914.

on to expend money.

on arising at said district meetings, involving the expenditure authorizing the levy of taxes, the vote thereon shall be bylined by taking and recording the ayes and noes of each attending and voting at such district meetings.



SCHOOL DISTRICT OFFICERS; GENERAL PROVISIONS.

Officers of district.

1. Each school district shall have from one to three trustees as the district determines, a clerk, a collector and if the district so decides a treasurer.

2. A union free school district shall have from three to nine trustees as the district shall determine. [Education Law, § 220.]

Qualifications of officers.

Every school district officer must be able to read and write and must be a qualified voter of the district. [Education Law, § 221.]

Ineligibility to office.

1. No school commissioner or supervisor is eligible to the office of trustee or member of a board of education, and no trustee can hold the office of district clerk, collector, treasurer or librarian.

2. A person removed from a school district office shall be ineligible to appointment or election to any district office for a period of one year from the date of such removal.

3. Not more than one member of a family shall be a member of the same board of education in any school district. [Education Law, § 222.]

Oath of office.

No officer of a school district shall be required to take the constitutional oath of office. [Education Law, § 223.]

Terms of office.

1. In a district having three or more trustees the full term of office of trustee shall be three years, but a trustee may be elected for one or two years as provided in this chapter.

2. In a district having a sole trustee the term of office of trustee shall be one year.

3. The term of office of all other district officers shall be one year.

4. One year, within the meaning of this section, is a school year. A school year shall be from August first until July thirty-first following.

Education Law, § 224, as amended by L. 1910, chs. 140 and 442.

Terms of officers of newly created district.

The terms of all officers elected at the first meeting of a newly created district shall expire on the first Tuesday of May next thereafter.

Education Law, § 225, as amended by L. 1913, ch. 129. In effect March 25, 1913.

Number of trustees; determination of change.

At the first annual meeting next after the erection of a district the electors shall determine, by resolution, whether the district shall have one or three trustees; and if they resolve to have three trustees, shall elect the three for one, two and three years, respectively, and shall designate by their votes for which term each is elected; thereafter in such district, one trustee shall be elected at each annual meeting to fill the office of the outgoing trustee.

2. The electors of any district having three trustees shall have power to decide, at any annual meeting, by a majority vote of those present and voting, whether the district shall have a sole trustee or three trustees. If they resolve to have a sole trustee, the trustees in office shall continue in office until their terms of office shall expire. No election of a trustee shall be had in the district until the offices of such trustees shall become vacant by the expiration

SCHOOL OFFICERS AND ELECTIONS.

... of office or otherwise, and thereafter but one trustee
... and district.

... of a district having, but one trustee may deter-
... ing, by a two-thirds vote of the legal voters present
... trustees; and upon the adoption of a resolution to that
... ect three trustees or such number as may be necessary
... re trustees, in the same manner as provided in this sec-
... three trustees at the first annual meeting after the el-
... t thereafter in such district, one trustee shall be elect-
... h annual meeting, to fill the office of the outgoing tru-
... Law, § 226

of officers.

... district officers shall be elected by ballot, and the trustee
... the ballot box for such purpose.

... inspectors of election shall be appointed in such manner
... termine, who shall receive the votes cast, canvass the re-
... sult of the ballot to the chairman.

... list containing the name of every person whose vote
... be kept by the clerk of the meeting

... lists shall be written or printed, or partly written
... taining the name of the person voted for and designati-
... is voted

... chairman shall declare to the meeting the result of each
... him by the inspectors, and the persons having the
... tively, for the several offices, shall be elected.

... Law, § 227

acceptance of election.



of such resignation and acceptance in the office of the district clerk shall be a bar to the recovery of either penalty under this section.

4. These penalties shall be for the benefit of the district for which such officer was appointed or elected. [Education Law, § 230.]

Resignation of district officers.

A school district officer may resign to a district meeting. Such officer shall also be deemed to have resigned if he files a written resignation with the school commissioner of his district and such commissioner endorses thereon his approval and files the same with the district clerk. [Education Law, § 231.]

Vacating office.

1. A school district office becomes vacant by the death, resignation, refusal to serve, incapacity, removal from the district or from office.

2. The collector or treasurer vacates his office by not executing a bond to the trustees, as herein required.

3. A trustee or a member of a board of education vacates his office by the acceptance of either the office of school commissioner or supervisor.

Education Law, § 232.

Filling vacancy in office of trustee.

1. A vacancy in the office of trustee in any district may be filled by election within thirty days after it occurs. If not so filled the school commissioner of the commissioner district, within which the school-house or principal school-house of the district is situated, may appoint a competent person to fill it.

2. If a vacancy in the office of trustee in a union free school district exists the commissioner of education may order a special election for filling such vacancy. When such special election is ordered the vacancy shall not be filled otherwise.

3. If such vacancy is supplied by a district meeting, it shall be for the balance of the unexpired term; but when such vacancy is supplied by appointment by a school commissioner it shall be only until the next annual meeting of the district. [Education Law, § 233.]

Filling vacancy in office of clerk, collector or treasurer.

A vacancy in the office of clerk, collector or treasurer, may be filled by appointment by the trustees of the district, and the appointees shall hold their respective offices until the next annual meeting of the district, and until their successors are elected and have qualified. [Education Law, § 234.]

Notice of appointment to fill vacancy and filing thereof.

Every appointment to fill a vacancy shall be forthwith filed, by the school commissioner or trustees making it, in the office of the district clerk, who shall immediately give notice of the appointment to the person appointed.

District records, books, etc., are district property.

The records, books and papers belonging or appertaining to the office of any officer of a school district are hereby declared to be the property of such district and shall be open for inspection by any qualified voter of the district at all reasonable hours, and any such voter may make copies thereof.

Education Law, § 236.

Duties of district clerk.

It shall be the duty of the clerk of each school district:

1. To record the proceedings of all meetings of the voters of his district

SCHOOL OFFICERS AND ELECTIONS.

be provided for that purpose by the district, and to
all reports made by the trustees to the school com-

mission, in the manner prescribed by section one hundred and
the and place of holding special district meetings.

A notice in writing of the time and place of such
meeting shall have been adjourned for a longer
at least five of the most public places of such district,
the time appointed for such adjourned meeting.

the required notice of every annual district meeting.

report immediately to every person elected or appointed
or appointment, and also to report to the town
in the school house of his district is situated, the
business of such officers, under a penalty of five dollars
each.

by the trustees of every resignation duly accepted by

and preserve all records, books and papers belonging
deliver the same to his successor. For a refusal to
he forfeit fifty dollars for the benefit of the school.



SCHOOL DISTRICT OFFICERS.

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three. And while there are two such vacancies, the trustee in office shall have all the powers and be subject to all the duties and liabilities of the three, as though he were a sole trustee.

2. When a vacancy shall occur in the office of trustee, the board shall immediately call a special meeting of the district to supply such vacancy.

Education Law, § 274.

Removal of school officers; withholding public money.

1. Whenever it shall be proved to his (commissioner of education) satisfaction that any trustee, member of a board of education, clerk, collector, treasurer, school commissioner, superintendent of schools or other school officer has been guilty of any willful violation or neglect of duty under this chapter, or any other act pertaining to common schools or other educational institution, participating in state funds, or willfully disobeying any decision, order or regulation of the regents or of the commissioner of education, said commissioner may, by an order under his hand and seal, which order shall be recorded in his office, remove such school officer from his office.

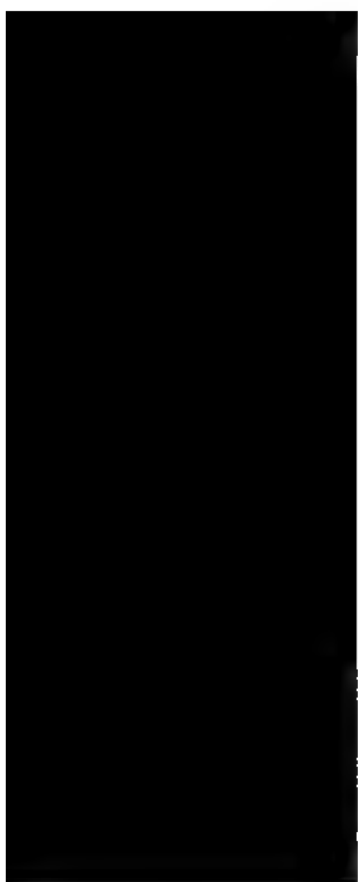
2. Said commissioner of education may also withhold from any district or city its share of the public money of the state for wilfully disobeying any provision of law or any decision, order or regulation as aforesaid.

Education Law, § 95.

Use of school house for polling places, registration and political meetings.

School houses and the grounds connected therewith and all property belonging to the district shall be in the custody, and under the control and supervision of the trustees or board of education of the district. The trustees or board of education may adopt reasonable regulations for the use of such school houses, grounds or other property, when not in use for school purposes, for such other public purposes as are herein provided. Such regulations shall not conflict with the provisions of this chapter and shall conform to the purposes and intent of this section and shall be subject to review on appeal to the commissioner of education as provided by law. The trustees or board of education of each district may, subject to regulations adopted as above provided, permit the use of the school house and rooms therein, and the grounds and other property of the district, when not in use for school purposes, for any of the following purposes:

6. For polling places for holding primaries and elections, and for the registration of voters, and for holding political meetings. But no such use shall be permitted unless authorized by a vote of a district meeting, held as provided by law. It shall be the duty of the trustees or board of education to call a special meeting for such purpose upon the petition of at least ten per-





BOARDS OF EDUCATION IN GENERAL.

Boards of education corporate body.

The board of education of each union free school district or city is hereby created a body corporate and it shall, at its first meeting and at each annual meeting thereafter, elect one of its members president.

Education Law, § 300.

Board of education in district whose boundaries are not coterminous with those of an incorporated village or city.

1. Whenever a union free school district shall be established pursuant to the provisions of sections one hundred and forty-one to one hundred and forty-five of this chapter and the boundaries of such district shall not be coterminous with the boundaries of an incorporated city or village, it shall be the duty of the meeting at which such union free school district is established to elect by ballot not less than three nor more than nine trustees, who shall, by the order of such meeting, be divided into three classes, the first to hold until one, the second until two, and the third until three years from the first Tuesday of August next following, except as in the next section provided. Thereafter there shall be elected in such districts, at the annual meeting, trustees to supply the places of those whose terms of office, by the classification aforesaid, expire.

2. The trustees thus elected, shall enter at once upon their offices, and the office of any existing trustees in such districts, before the establishment of a union free school therein, shall cease, except for the purposes stated in section one hundred and thirty-five of this chapter. The said trustees and their successors in office shall constitute the board of education of the union free school district thus established.

Education Law, § 301.

Board of education in district whose boundaries are coterminous with those of an incorporated village or city.

Whenever said board of education shall be constituted for any district whose limits correspond with those of any incorporated village or city, the trustees so elected shall, by the order of such meeting, be divided into three classes: The first class to serve until one; the second, until two; and the third, until three years after the date of the next charter election in such village or city, and their regular term of service shall be computed from the several dates of such charter election. Thereafter, there shall be annually elected in such villages and cities, at the charter elections, by separate ballot, to be indorsed "school trustee," in the same manner as the charter officers thereof, trustees of the said union free schools, to supply the places of those whose terms by the classification aforesaid expire.

Education Law, § 302.

SCHOOL OFFICERS AND ELECTIONS.

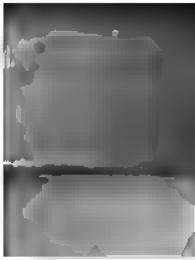
Separate elections in certain districts.

In school districts whose limits do not correspond with a village or city, and in which the number of children is three hundred, as shown by the last annual report, on to the school commissioner, the qualified voters, by a vote of a majority of those present and voting, or at any duly called special meeting, to be according the ayes and noes, determine that the election of the board of education shall be held on the Wednesday designated by law for holding the annual meeting.

If the determination shall be changed, such election shall be held on the next following the day on which such annual meeting is held, between the hours of twelve o'clock noon and four o'clock p.m., at the principal school house in the district, or at such other place as the trustees may designate.

If the place of holding such election is other than at the principal school house, the trustees shall give notice thereof by the publication of a notice one week before the time of holding such election, in a newspaper published in the district, or by posting the same in three public places in the district. The trustees may, by resolution, extend the time of holding such election from four o'clock until sunset.

At the meeting of the board of education as may be present, shall be held the election. If a majority of such board shall not be present, the legal voters of the district present, to act as inspectors of the polls, those members of the board in attendance, and if none of the board of education shall be present, the legal voters of the district present, to act as inspectors of the polls; and if none of the board of education shall be present, the legal voters of the district present, to act as inspectors of the polls.



7. Whenever the time for holding such election, as aforesaid, shall pass without such election being held in any such district, a special election shall be called by the board of education, but if no such election be called by said board within twenty days after such time shall have passed, the school commissioner or the commissioner of education may order any inhabitant of said district to give notice of such election in the manner prescribed by sections one hundred and ninety-three; and the officers elected at such special election shall hold their respective offices only until the next annual election, and until their successors are elected and shall have qualified, as in this chapter provided.

8. The foregoing provisions shall not apply to union free school districts in cities, nor to union free school districts whose boundaries correspond with those of an incorporated village, nor to any school district organized under a special act of the legislature, in which the time, manner and form of the election of district officers shall be different from that prescribed for the election of officers in union free school districts, organized under the general law, nor to any of the union free school districts in the counties of Suffolk, Chautauque, Warren and Saint Lawrence.

Education Law, § 303, as amended by L. 1910, chs. 140 and 442; L. 1917, ch. 270.

Determination of election disputes.

All disputes concerning the validity of any district election or of any of the acts of the officers of such election shall be referred to the commissioner of education for determination and his decision in the matter shall be final and not subject to review. The commissioner may in his discretion order a new election.

Education Law, § 304.

Election and organization of board of education in new district where union free school district containing two incorporated villages is divided.

1. Within ten days after the school commissioner shall have designated any separate school district organized under the provisions of sections one hundred and thirty and one hundred and thirty-one of this chapter, he shall call a special meeting of the qualified voters of such school district at a time and place to be named by him to elect a board of education to consist of six members, two of whom shall be elected for one year, two for two years and two for three years from the date of the annual school meeting next succeeding such special meeting. The call for such special meeting shall be published in the manner provided in section one hundred and thirty for calling a special meeting to determine as to whether the school district shall be divided.

2. The school commissioner shall call such special meeting to order and the voters present shall elect a chairman and secretary for such meeting and appoint three tellers to canvass the votes cast. After the votes shall have been canvassed the chairman and secretary shall forthwith certify the result of such canvass to the said school commissioner, who shall within five days thereafter convene the members of the board of education, shown by said certificate to have been elected, for the purpose of organization, and said certificate of the result of such canvass shall thereupon become a part of the record of said school district.

Education Law, § 305.

SCHOOL OFFICERS AND ELECTIONS.

number of members of board of education in a district whose boundaries are coterminous with an incorporated village or city.

If members of the board of education of a union whose limits correspond with those of an incorporated village are increased to not more than nine or decreased to not less than five in the following manner:

1. In the case of such union free school district, shall be called and held at least fifteen resident taxpayers of such district, shall be held at least thirty days prior to the annual election of city, a proposition for the increase or decrease of the board of education to a number specified in the

2. If a meeting shall be called and held in the manner provided in section one hundred and ninety three of this chapter and a proposition is adopted and it is determined thereby to increase the number of the board of education of such district, then at the next ensuing annual village or city election, a sufficient number of members shall be elected to the board of education so that the total number of members shall be the number specified in such proposition.

3. If a proposition is adopted and it is determined thereby to decrease the number of the board of education in such district, no members of such district shall thereafter be elected until



crease or decrease such board will be presented to the annual meeting for determination. If the board refuses or fails to give such notice the notice may be given in such manner as the commissioner of education may direct.

3. If any such board shall consist of less than nine members and such meeting shall determine to increase the number, such meeting shall elect the additional number so determined upon and shall divide such number into three classes, the first to hold office one year, the second two years and the third three years.

4. If such meeting shall determine to diminish the number of members composing such board, no election shall be held in such district to fill the vacancies of the outgoing members until the number of such members shall correspond to the number which such meeting shall determine to compose such board

Education Law, § 308.

Powers of removal of member of board of education.

For cause shown, and after giving notice of the charge and opportunity of defense, the commissioner of education may remove any member of a board of education. Willful disobedience of any lawful requirement of the commissioner of education, or a want of due diligence in obeying such requirement or willful violation or neglect of duty is cause for removal.

Education Law, § 309.

Powers and duties of boards of education.

The said board of education of every union free school district shall have power, and it shall be their duty:

16. To fill any vacancy which may occur in said board by reason of the death, resignation, removal from office or from the school district, or refusal to serve, of any member or officer of said board; and the person so appointed in the place of any such member of the board shall hold his office until the next election of trustees.

17. To remove any member of their board for official misconduct. But a written copy of all charges made of such misconduct shall be served upon him at least ten days before the time appointed for a hearing of the same; and he shall be allowed a full and fair opportunity to refute such charges before removal.

Education Law, § 310.

TOWN BOARDS OF EDUCATION.

(Article XI-a (§§ 330-365), added by L. 1917, ch. 528, in effect May 2, 1917.)

School districts continued.

Each school district in the state is hereby continued as such district exists at the time this act goes into effect or until modified as provided in this chapter. No order consolidating two or more school districts shall be effective until such order is approved by a majority vote of the town board of education of the town or towns in which such districts are located, and thereafter approved by a majority vote of the qualified electors of each district present and voting at a meeting of the districts consolidated by said order.

Education Law, § 330.

Town board of education.

1. A town board of education in each town of the state, having jurisdiction over all the schools in the town as hereinafter provided, except in union free school districts having a population of fifteen hundred or more or employing fifteen teachers or more at the time this act takes effect, and the school districts in the several towns of a county which adjoins a city having a population of one million or more and in which there are only two district superintendents, is hereby established to begin on the first day of August, nineteen hundred and seventeen. Such board shall consist of three members in each town in which the number of school districts under its jurisdiction is five or less and shall consist of five members in all other towns. The term of office of each member shall be three years except that, of the members first elected hereunder, in a town having three members on such board, one shall hold office until August first, nineteen hundred and eighteen, one until August first, nineteen hundred and nineteen, and one until August first, nineteen hundred and twenty, and in a town having five members, two shall hold office until August first, nineteen hundred and eighteen, two until August first, nineteen hundred and nineteen, and one until August first, nineteen hundred and twenty. The terms of office of such members shall begin on the first day of August following their election.

2. Where there are two or more union free school districts each having a population of less than fifteen hundred, each maintaining an academic department which has been admitted to the university of the state of New York and the principal schoolhouse in each is situated wholly in the same town, the district superintendent shall issue an order dividing the town into as many units as there are such union free school districts situated in the town and designating the several school districts of the town to be associated with such union free school districts to form such units. The said units shall be known as town school units and shall be numbered by the district superintendent at the time of such division. Each union free school district and the districts so associated with it in forming such unit shall have a separate board of education to be elected in the same manner as boards of education in towns are elected. Such board shall have and exer-

cise the jurisdiction and powers, and perform the duties in respect to the schools in the districts forming said unit, conferred or imposed upon a town board of education as to the schools of the several districts in a town. Wherever in this article reference is made to the town board of education, to the school officers of the town, to the school meeting of the town, or to the school electors of the town it shall be construed as referring also to the boards of education, school officers, school meeting or school electors of such units as the case may be.

3. Whenever twenty-five duly qualified voters from each of such separate units in a town having two or more boards of education shall present a petition to the district superintendent to have all of the schools situated within the limits of the town united under one town board of education as provided by subdivision one of this section, the district superintendent shall direct each separate board of education to submit to the voters of their unit at the next annual school meeting the question "Shall all the schools in the town of be placed under the jurisdiction of one town board of education?" If a majority of the voters in each separate unit, voting at such election, shall vote in favor thereof, the terms of office of each of the members of the boards of education in such town shall terminate one year from the first day of August next following such annual meeting, and there shall be elected at the next annual meeting a new town board of education as provided by section three hundred and fifty-four of this act, which board shall take charge of all the schools of the town on the first day of August following such election.

4. In a town in which there is, wholly or in part, a union free school district having a population of fifteen hundred or more or employing fifteen teachers or more, the principal schoolhouse of which is situate in such town, such district may by resolution, duly submitted and adopted as provided by law at a district meeting, determine to become subject to the provisions of this article. The board of education shall, upon the petition signed by not less than fifteen per centum of the qualified electors of such district, give notice of the submission of such resolution to an annual or special meeting, in the manner provided by law. If such resolution be adopted at such meeting, the board of education of the town in which the schoolhouse of such district is situate, shall, upon petition signed by fifteen per centum of the qualified electors of such town, residing outside of such union free school district, submit a resolution to an annual or special meeting of such town as provided in this article, for the purpose of determining whether such union free school district shall become subject to the provisions of this article. If such resolution be adopted by such town, the schools of such union free school district shall become subject to the jurisdiction of the board of education of such town and the provisions of this article shall apply to such district and the schools thereof, notwithstanding the exception contained in subdivision one of this section, and thereupon the terms of office of the officers of such union free school district shall terminate.

Education Law, § 331.

Qualifications of members of board of education.

A member of a board of education must be a qualified elector at the school meetings of the town for which he is chosen. A district superintendent of

schools, or a supervisor shall not be eligible to the office of member of a board of education. Not more than one member of a family shall be a member of the same board of education in a town. A person who is removed from his office as a member of a board of education shall be ineligible to appointment or election to any school office in the town for a period of five years from the date of such removal.

Education Law, § 332.

Election of board of education.

1. The first board of education of each town thereof shall be elected by the trustees and members of the boards of education of the several school districts in such town, subject to the provisions of this article. The said trustees and members of boards of education shall meet for such purpose on the second Tuesday in June, nineteen hundred and seventeen, in one of the schoolhouses in the town to be designated by the district superintendent of schools. The said trustees and members of boards of education shall organize by the election of a chairman and clerk. They shall thereupon proceed to elect members of the board of education of the town to hold office for the term specified in section three hundred and thirty-one of this article. The persons elected as members of such board shall be residents of the town and qualified electors at school meetings therein. Not more than three of the members of such board of education shall reside in the same school district, except in towns in which there are less than three school districts. The chairman and clerk of the meeting shall canvass the votes cast for the candidates for the offices to be filled and the candidate receiving a majority of the votes cast shall be elected. The chairman and clerk of the meeting shall thereupon notify the district superintendent in writing of the persons declared elected as members of said board, and the district superintendent shall give notice of such election to the persons so elected. As the terms of office of such members expire their successors shall be elected at the annual school meeting.

The district superintendent of schools shall call a meeting of the board of education of each town in his supervisory district, elected as above provided, on the first day of August in nineteen hundred and seventeen, at the principal schoolhouse of the town, for the purpose of organization and the transaction of any other business which may properly come before such board. Upon the election of a clerk of such board, the chairman and clerk of the meeting held for the purpose of electing members of the board of education shall file the minutes of the meeting with such clerk.

Education Law, § 354.

Time and place of annual meeting.

1. The annual school meeting in each town shall be held on the first Tuesday in May in each year, at which members of the board of education shall be elected and such business as may legally come before such meeting shall be transacted. Such meeting shall be held at the schoolhouse in the town which is the most conveniently accessible to a majority of the qualified electors of such town. The board of education shall designate the schoolhouse at which such meeting shall be held.

2. The board of education may divide the town into school election districts, whenever it deems it necessary for the convenience of the qualified electors, because of the territorial extent of the town or the number of such electors. If a town is divided into school election districts, the board shall designate the schoolhouse in each district where the annual meeting shall be held.

3. The polls for the election of members of the board of education at such meeting shall be open from nine o'clock in the morning to four o'clock in the afternoon.

Education Law, § 355.

Notice of annual school meeting.

The clerk of each board of education shall give notice of the time when and the places where the annual school meeting in the town is to be held, by publishing such notice once in each week for the four weeks next preceding such meeting, in two newspapers, if there shall be two, or in one newspaper, if there shall be but one, published or circulated in such town. If no newspaper shall be published or circulated therein, such notice shall be posted on the door of each schoolhouse in the town and in at least ten other public places in said town, at least twenty days before the time of such meeting.

Education Law, § 356.

Special school meetings in towns.

The board of education of each town shall have power to call a special meeting of the qualified electors of the town, whenever it deems necessary and proper, and whenever required by law, in the manner prescribed for the giving of a notice of the annual meeting. Such special meetings shall be held at the schoolhouse or schoolhouses at which the annual school meeting of the town is required to be held.

Education Law, § 357.

Qualifications of voters at school meetings.

1. To be eligible to vote at annual or special town school meetings, a person must possess the qualifications prescribed in section two hundred and three of this chapter, except as provided in the following subdivision:

2. In a school district located in two or more towns, those persons possessing the qualifications required under subdivision one of this section shall be entitled to vote at annual or special town school meetings in the town in which the principal schoolhouse of the district in which they reside is located, irrespective of the town in which they reside. A person entitled to vote under this subdivision, at an annual or special town school meeting in a town other than the town in which he resides shall not be entitled to vote at such meetings in the town in which he resides.

Education Law, § 358.

Preparation of list of qualified electors.

1. The clerk of the board of education in each town shall, on or before the first day of April in each year, prepare a list of the persons qualified to

vote at annual or special school meetings held in the town. If the town is divided into school election districts, a separate list shall be prepared, as herein provided, containing the names of the qualified electors, residing in each district. The names on such list shall be arranged alphabetically, according to the surnames of such electors, and shall contain a statement as to the place of residence of each elector.

2. Such list shall be placed on file in the office of the clerk of the board of education or at some other place, to be designated by the board, where it may be examined by any person interested therein, from four to eight o'clock in the evening of each Friday and Saturday of the four weeks immediately preceding the annual school meeting. The clerk of the board of education or some person to be designated by the board, shall attend at such office or place, at such times, and permit public inspection of such list. A person, whose name is not upon such list, who is or will be a qualified voter at the annual meeting, may submit to the clerk of the board, evidence, showing such fact, and the clerk shall correct such list, by inserting his name therein. If the name and residence of a qualified elector are incorrectly stated upon such list, the clerk, upon satisfactory evidence being presented to him, may correct such errors.

3. A qualified voter at the annual school meeting of the town may, upon the examination of such list, file with the clerk of the board, a written challenge of the qualifications as an elector of any person, whose name appears upon such list. The board of education of the town shall meet on the Monday preceding the annual school meeting and may, upon satisfactory evidence being presented to it, correct the errors in such list of qualified electors and add thereto the names of persons, ascertained by it to be qualified electors at such annual meeting. The board shall also indicate upon the list of qualified electors, the persons whose qualifications as electors have been challenged.

4. If the annual school meeting is held in election districts, a separate list for each district, revised and corrected as above provided, shall be delivered by the clerk of the board of education to the inspectors appointed, as herein-after provided, to conduct such school meeting in each of such districts.

Education Law, § 359.

Nominations and ballots.

1. Candidates for members of the board of education in a town shall be nominated by petition. Such petition shall be directed to the clerk of the board of education of the town and shall be signed by at least twenty-five qualified electors thereof. It shall state the names and residences of the candidates and whether such candidates are nominated for full terms or for the unexpired portion of such terms. Each petition shall be filed with the clerk of the board of education on or before the fifteenth day preceding the day of the annual school meeting.

2. The board of education shall cause to be printed official ballots, containing the names of all candidates nominated as above provided. Such ballots shall separately state whether the persons named thereon are candidates for full terms or for portions of terms. The names of the candidates shall be arranged alphabetically according to their surnames, in columns under titles or designations, showing whether they are to be elected.

for full terms or portions of terms. Blank spaces shall be provided so that persons may vote for candidates who have not been nominated for the offices to be filled at such election. Such ballots shall have printed thereon instructions as to the marking of the ballots and the number of candidates for the several offices for which an elector is permitted to vote. /

3. Whenever a question is required to be submitted at an annual or special school meeting, the ballots therefor shall conform as nearly as may be to the ballots required to be used, under the election law, for the submission of questions or propositions, at a general election.

4. The number of ballots to be used at an annual or special school meeting shall at least equal the number of qualified electors in the town, as appears from the list of qualified electors thereof. The clerk of the board shall cause to be delivered to the inspectors in each of such election districts, on the day of the meeting, a sufficient supply of such ballots for the use of the qualified electors thereof. Such ballots shall be printed at the expense of the town and the cost thereof shall be paid out of school funds, in the same manner as other school expenses. An election of a member of a board of education shall not be declared invalid or illegal because of the use of ballots which do not conform to the requirements of this section or to the provisions of the election law, provided the intent of the elector may be ascertained from the use of such irregular or defective ballot and such use was not fraudulent and did not substantially affect the result of the election.

Education Law, § 360.

Inspectors of election.

The board of education shall designate three inspectors of election for each election district into which such town has been divided. The clerk of the board of education shall give written notice of appointment to the persons so appointed. If a person, appointed as inspector of election, refuses to accept such appointment, the board of education may appoint a qualified elector of the district to fill such vacancy. Such board of inspectors shall before opening the polls in the election district for which they are appointed, organize by electing one of their number as chairman and one as poll clerk. Each inspector shall receive for his services a compensation of three dollars, to be paid out of the school funds of the town and in the same manner as other expenses are paid.

Education Law, § 361

Conduct of school meetings; challenges.

1. All elections, held as provided herein, shall be conducted, so far as may be, in accordance with the provisions of the election law relative to general elections, except as otherwise provided herein. Suitable ballot boxes shall be provided by the board of education, to be used at such school meetings. Such ballot boxes shall conform as nearly as may be to the provisions of the election law relative to ballot boxes at general elections. All persons, whose names appear upon the list of qualified electors, as residing in the town or election districts, shall be permitted to vote and shall be given ballots for such purpose. Persons whose names do not appear upon such list may be permitted to vote, upon satisfactory evidence being presented showing that they are qualified electors of the town or district and upon making the

declaration hereinafter prescribed. The ballots when presented to the inspectors shall be folded so as to conceal the names of candidates for whom or the proposition or question for which the elector has voted. All electors entitled to vote, who are in the places where the election is held at or before the time of closing the polls, shall be allowed to vote. The poll clerk shall keep a poll list, containing the names of the qualified electors who vote at such election for the candidates or propositions or questions voted for thereat.

2. Any qualified elector may challenge the right of a person to vote, at the time when he requests a ballot. All persons, named upon the list of electors as having been challenged prior to the day of the meeting, shall also be challenged before ballots are given to them. The chairman of the board of inspectors shall require the person so challenged, or a person whose name does not appear upon the list of qualified electors, and who requests the privilege of voting, to make the following declaration: "I do declare and affirm that I have been for the thirty days last past an actual resident of this town and that I am qualified to vote at this meeting."

If such person makes such declaration, he shall be permitted to vote at the meeting but if he shall refuse to make such declaration he shall not be permitted to vote for candidates or upon any question or proposition at such meeting.

3. A person who wilfully makes a false declaration as to his right to vote at such meeting, is guilty of a misdemeanor. A person who is not qualified to vote at such meeting but who shall vote thereat, shall be subjected to a penalty of fifty dollars which may be recovered in a suit brought therefor by the board of education for the benefit of the schools of the town.

Education Law, § 362.

Canvass of votes; declaration of result.

1. Immediately upon the close of the polls, the board of inspectors shall count the ballots found in the ballot boxes, without unfolding them, except so far as is necessary to ascertain that each ballot is single. They shall compare the number of ballots found in the ballot boxes with the number of persons recorded on the poll list as having voted for the candidates or the questions or propositions submitted at such meeting. If the number of ballots found in the ballot boxes shall exceed the number of names so recorded on such list, such ballots shall be replaced, without being unfolded, in the boxes from which they were taken and shall be thoroughly mingled in such boxes and one of the members of the board of inspectors designated by such board shall publicly draw out as many ballots as shall be equal to the number of excess ballots. The ballots so drawn out shall be inclosed, without unfolding, in an envelope which shall be sealed and indorsed with a statement of the number of such excess ballots withdrawn from the box and shall be signed by the inspector who withdrew such ballots. Such envelope shall be delivered to the clerk of the board of education and shall be preserved by him for a period of at least one year.

2. The ballots shall be counted or canvassed by the inspectors in the manner provided for the canvassing of ballots at a general election, except as otherwise provided herein. The votes cast for each question or proposition shall be tallied and counted by the inspectors and a statement shall be made, containing the number of votes cast for and against each question or propo-

sition submitted at such meeting. Such statement shall also give the number of ballots which are declared void and describe the defects therein and shall also specify the number of wholly blank ballots cast. Such statement shall be signed by the inspectors. A ballot shall not be declared void unless the defects are such as to clearly indicate that the ballot was marked for identification or that the intent of the elector in voting such ballot can not be ascertained therefrom. The ballots which are declared void and not counted shall be inclosed in an envelope, which shall be sealed and indorsed as containing void ballots and shall be signed by the inspectors. Such envelope shall be filed with the clerk of the board of education and preserved by him for a period of at least one year. After the ballots are counted and the statements have been made as required herein, such ballots shall be replaced in the ballot boxes. Each box shall be securely locked and sealed and deposited with the clerk of the board of education. The unused ballots shall be placed in a sealed package and be returned to the clerk of the board of education, at the time when such ballot boxes are delivered to him.

3. The inspectors shall deliver the statement of the votes cast at such meeting, in each election district, to the clerk of the board of education on the day following such meeting. The board of education shall meet at the usual place of meeting, at eight o'clock in the evening of the day following such election and shall forthwith examine and tabulate the statement of the results of the election in the several election districts of such town. The board of education shall canvass the returns as contained in the statements of the inspectors and shall determine the number of votes cast for and against each candidate at such election and for and against each question or proposition voted upon in the several election districts of the town. The board shall thereupon declare the result of the canvass of the votes in each election district.

4. The candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. The clerk of the board of education shall record the result of the election as announced by the board of education, in the minutes of the meeting.

Education Law, § 363.

Successful candidates to be notified of election.

The clerk of the board of education shall, within twenty-four hours after the result of the election has been declared, serve a written notice either personally or by mail upon each person declared to be elected as a member of the board of education. A person upon whom such notice has been served shall be deemed to have accepted the office unless within five days after the service of such notice he shall file his written refusal with the clerk.

Education Law, § 364.

Appeals to the commissioner of education.

An appeal may be taken to the commissioner of education from such election or from any of the acts or proceedings of a school meeting or the board of education, in the same manner and with the same effect as in the case of an appeal to him from the acts or proceedings of a school meeting or election or of a board of education, under the provisions of this chapter. The commissioner of education may, in his discretion, order a new election in any town.

Education Law, § 365.

BOARD OF EDUCATION IN THE SEVERAL CITIES OF THE STATE.

(Article 33-a [§§ 865-881], added by L. 1917, ch. 786, in effect June 8, 1917.)

Board of education.

1. A board of education is hereby established in each city of the state. The educational affairs in each city shall be under the general management and control of a board of education to consist of not less than three and not more than nine members, to be chosen as hereinafter provided, and to be known as members of the board of education. The number of members on the board of education of each city shall be as follows:

a. A city having nine members or less on its board of education shall continue to have such number of members on said board as such board contains at the time this law goes into effect.

b. A city having a population of one million or more shall have a board of education to consist of seven members.

c. In all other cities of the state the number of members of the board of education shall be nine.

2. A board of education in office at the time this law goes into effect except as hereinafter provided shall continue in office and possess the powers and duties of a board of education under this article until its successor shall be chosen as provided herein.

3. The provisions of this act shall apply to and govern the operation and administration of the public school system and other educational affairs in a city which is created after this act goes into effect. The authorities in charge of the operation and administration of the schools and other educational affairs of the school districts included within such city at the time the act creating such city goes into effect shall continue in charge thereof until the first Tuesday in May thereafter. On such first Tuesday in May a board of education consisting of five members shall be elected at the annual school election in accordance with the provisions of this chapter. One member of such board shall be elected for one year, one member for two years, one member for three years, one member for four years, and one member for five years from the said first Tuesday of May. As their terms expire their successors shall be chosen for a full term of five years.

Education Law, § 865.

Board of education; eligibility; how chosen; term of office; vacancies.

1. No person shall be eligible to the office of member of a board of education who is not a citizen of the United States and who has not been a resident of the city for which he is chosen for a period of at least three years immediately preceding the date of his election or appointment.

2. In a city having a population of one million or more and divided into boroughs, there shall be a board of education consisting of seven members. Two members of such board shall be residents of the borough having the largest population, two shall be residents of the borough having the second



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largest population, and one shall be a resident of each of the other boroughs in such city. The mayor shall appoint such members on the first Wednesday in January, nineteen hundred and eighteen, and in appointing them shall designate the terms of office of such members so that the term of one member shall expire on the first Tuesday in May, nineteen hundred and nineteen; one on the first Tuesday in May, nineteen hundred and twenty; one on the first Tuesday in May, nineteen hundred and twenty-one; one on the first Tuesday in May, nineteen hundred and twenty-two; one on the first Tuesday in May, nineteen hundred and twenty-three; one on the first Tuesday in May, nineteen hundred and twenty-four; and one on the first Tuesday in May, nineteen hundred and twenty-five. Their successors shall be chosen for full terms of seven years. Thereafter, as vacancies occur on such board they shall be filled from the several boroughs so that each borough shall always be represented on such board as required under this subdivision. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term.

3. In each city in which the law provides, prior to the time this article goes into effect, that the members of the board of education shall be chosen by vote of the people at an election separate from the general or municipal election, the members of the board of education of that city shall hereafter be elected by the voters at large at the annual school election.

4. In each city in which the law provides, prior to the time this article goes into effect, that the members of the board of education shall be chosen by vote of the people at a general or municipal election, the members of such board of education shall continue to be so chosen by the voters at large at either a general or municipal election, or at both, and for the terms prescribed by such law.

5. In each other city of the state members of the board of education shall be appointed from the city at large by the mayor except as otherwise provided herein, but in a city having a population of four hundred thousand or more and less than one million, such appointments shall be subject to confirmation by the council. The members of the board of education in a city having a population of four hundred thousand or more and less than one million shall be appointed by the mayor on January fifteenth, nineteen hundred and eighteen, subject to confirmation by the council, for terms of one, two, three, four and five years from the first Tuesday in May, nineteen hundred and seventeen, and their successors shall be appointed as provided herein for five years.

6. If the number of members on a board of education in a city in which the members of such board are chosen at an annual school, general or municipal election exceeds nine, no person shall be elected to membership thereon as vacancies occur until the number of members on such board shall be less than nine.

7. If the number of members on a board of education in a city in which the members of such board are appointed by the mayor exceeds nine, the term of office of each member of such board shall cease and terminate when this act takes effect, except as otherwise provided herein, and the mayor in each of such cities shall thereupon appoint a board of education to consist of nine members. Such members shall be appointed for the following terms: two members to serve until the first Tuesday in May, nineteen hundred and eighteen; two to serve until the first Tuesday in May, nineteen hundred and

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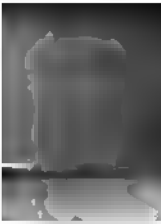
§ 330-365], added by L. 1917, ch. 323, in effect May 1, 1918.

§ 330 continued.

Any school district in the state is hereby continued as such district until this act goes into effect or until modified as provided in this act. Any order consolidating two or more school districts shall be valid only if approved by a majority vote of the town board of the town or towns in which such districts are located, and by a majority vote of the qualified electors of each district. Any meeting of the districts consolidated by said order shall be held on the first day of September next following the date of the order. L. 1917, ch. 323, § 330.

§ 331 education.

There shall be a board of education in each town of the state, having charge of the schools in the town as hereinafter provided, except in the case of a town having a population of fifteen hundred or more persons or more at the time this act takes effect, and in the case of several towns of a county which adjoins a city having a population of one million or more and in which there are only two or more towns, in which case a board of education shall be established to begin on the first day of September next following the date of the act. Such board shall consist of three or more members, the number of whom shall be determined by the town board, in which the number of school districts under its jurisdiction shall be determined.



cise the jurisdiction and powers, and perform the duties in respect to the schools in the districts forming said unit, conferred or imposed upon a town board of education as to the schools of the several districts in a town. Wherever in this article reference is made to the town board of education, to the school officers of the town, to the school meeting of the town, or to the school electors of the town it shall be construed as referring also to the boards of education, school officers, school meeting or school electors of such units as the case may be.

3. Whenever twenty-five duly qualified voters from each of such separate units in a town having two or more boards of education shall present a petition to the district superintendent to have all of the schools situated within the limits of the town united under one town board of education as provided by subdivision one of this section, the district superintendent shall direct each separate board of education to submit to the voters of their unit at the next annual school meeting the question "Shall all the schools in the town of be placed under the jurisdiction of one town board of education?" If a majority of the voters in each separate unit, voting at such election, shall vote in favor thereof, the terms of office of each of the members of the boards of education in such town shall terminate one year from the first day of August next following such annual meeting, and there shall be elected at the next annual meeting a new town board of education as provided by section three hundred and fifty-four of this act, which board shall take charge of all the schools of the town on the first day of August following such election.

4. In a town in which there is, wholly or in part, a union free school district having a population of fifteen hundred or more or employing fifteen teachers or more, the principal schoolhouse of which is situate in such town, such district may by resolution, duly submitted and adopted as provided by law at a district meeting, determine to become subject to the provisions of this article. The board of education shall, upon the petition signed by not less than fifteen per centum of the qualified electors of such district, give notice of the submission of such resolution to an annual or special meeting, in the manner provided by law. If such resolution be adopted at such meeting, the board of education of the town in which the schoolhouse of such district is situate, shall, upon petition signed by fifteen per centum of the qualified electors of such town, residing outside of such union free school district, submit a resolution to an annual or special meeting of such town as provided in this article, for the purpose of determining whether such union free school district shall become subject to the provisions of this article. If such resolution be adopted by such town, the schools of such union free school district shall become subject to the jurisdiction of the board of education of such town and the provisions of this article shall apply to such district and the schools thereof, notwithstanding the exception contained in subdivision one of this section, and thereupon the terms of office of the officers of such union free school district shall terminate.

Education Law, § 331.

Qualifications of members of board of education.

A member of a board of education must be a qualified elector at the school meetings of the town for which he is chosen. A district superintendent of

BOARDS OF EDUCATION.

Supervisor shall not be eligible to the office of member.
Not more than one member of a family shall be a member of education in a town. A person who is removed from a board of education shall be ineligible to run for any school office in the town for a period of one year from the date of such removal.

Law, § 332.

Board of education.

A board of education of each town thereof shall be elected by the voters of the town, subject to the provisions of this article. The annual meeting of boards of education shall meet for such purpose in June, nineteen hundred and seventeen, in one of the towns to be designated by the district superintendent of education, and members of boards of education shall organize and elect a chairman and clerk. They shall thereupon proceed to elect a board of education of the town to hold office for the term three hundred and thirty one of this article. The members of such board shall be residents of the town and shall hold meetings therein. Not more than three of the members of a board of education shall reside in the same school district, if there are less than three school districts. The annual meeting shall canvass the votes cast for the candidates for the board of education and the candidate receiving a majority of the votes shall be elected. The chairman and clerk of the meeting shall



2. The board of education may divide the town into school election districts, whenever it deems it necessary for the convenience of the qualified electors, because of the territorial extent of the town or the number of such electors. If a town is divided into school election districts, the board shall designate the schoolhouse in each district where the annual meeting shall be held.

3. The polls for the election of members of the board of education at such meeting shall be open from nine o'clock in the morning to four o'clock in the afternoon.

Education Law, § 355.

Notice of annual school meeting.

The clerk of each board of education shall give notice of the time when and the places where the annual school meeting in the town is to be held, by publishing such notice once in each week for the four weeks next preceding such meeting, in two newspapers, if there shall be two, or in one newspaper, if there shall be but one, published or circulated in such town. If no newspaper shall be published or circulated therein, such notice shall be posted on the door of each schoolhouse in the town and in at least ten other public places in said town, at least twenty days before the time of such meeting.

Education Law, § 356.

Special school meetings in towns.

The board of education of each town shall have power to call a special meeting of the qualified electors of the town, whenever it deems necessary and proper, and whenever required by law, in the manner prescribed for the giving of a notice of the annual meeting. Such special meetings shall be held at the schoolhouse or schoolhouses at which the annual school meeting of the town is required to be held.

Education Law, § 357.

Qualifications of voters at school meetings.

1. To be eligible to vote at annual or special town school meetings, a person must possess the qualifications prescribed in section two hundred and three of this chapter, except as provided in the following subdivision:

2. In a school district located in two or more towns, those persons possessing the qualifications required under subdivision one of this section shall be entitled to vote at annual or special town school meetings in the town in which the principal schoolhouse of the district in which they reside is located, irrespective of the town in which they reside. A person entitled to vote under this subdivision, at an annual or special town school meeting in a town other than the town in which he resides shall not be entitled to vote at such meetings in the town in which he resides.

Education Law, § 358.

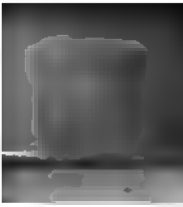
Preparation of list of qualified electors.

The clerk of the board of education in each town shall, on or before the first day of April in each year, prepare a list of the persons qualified to

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after prescribed. The ballots when presented to be folded so as to conceal the names of candidates for a or question for which the elector has voted. All who are in the places where the election is held at opening the polls, shall be allowed to vote. The poll clerk containing the names of the qualified electors who the candidates or propositions or questions voted for. An elector may challenge the right of a person to vote in requests a ballot. All persons, named upon the list, who have been challenged prior to the day of the meeting, shall not receive ballots are given to them. The chairman of the board require the person so challenged, or a person whose name is upon the list of qualified electors, and who requests a ballot, to make the following declaration. "I do declare that I have been for the thirty days last past an actual resident of this town, and that I am qualified to vote at this meeting." If he shall refuse to make such declaration he shall be ineligible to vote for candidates or upon any question or proposition.

Who willfully makes a false declaration as to his right to vote is guilty of a misdemeanor. A person who is not qualified to vote at a meeting but who shall vote thereat, shall be subjected to a fine of five dollars which may be recovered in a suit brought by the board of education for the benefit of the schools of the town.



sition submitted at such meeting. Such statement shall also give the number of ballots which are declared void and describe the defects therein and shall also specify the number of wholly blank ballots cast. Such statement shall be signed by the inspectors. A ballot shall not be declared void unless the defects are such as to clearly indicate that the ballot was marked for identification or that the intent of the elector in voting such ballot can not be ascertained therefrom. The ballots which are declared void and not counted shall be inclosed in an envelope, which shall be sealed and indorsed as containing void ballots and shall be signed by the inspectors. Such envelope shall be filed with the clerk of the board of education and preserved by him for a period of at least one year. After the ballots are counted and the statements have been made as required herein, such ballots shall be replaced in the ballot boxes. Each box shall be securely locked and sealed and deposited with the clerk of the board of education. The unused ballots shall be placed in a sealed package and be returned to the clerk of the board of education, at the time when such ballot boxes are delivered to him.

3. The inspectors shall deliver the statement of the votes cast at such meeting, in each election district, to the clerk of the board of education on the day following such meeting. The board of education shall meet at the usual place of meeting, at eight o'clock in the evening of the day following such election and shall forthwith examine and tabulate the statement of the results of the election in the several election districts of such town. The board of education shall canvass the returns as contained in the statements of the inspectors and shall determine the number of votes cast for and against each candidate at such election and for and against each question or proposition voted upon in the several election districts of the town. The board shall thereupon declare the result of the canvass of the votes in each election district.

4. The candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. The clerk of the board of education shall record the result of the election as announced by the board of education, in the minutes of the meeting.

Education Law, § 363.

Successful candidates to be notified of election.

The clerk of the board of education shall, within twenty-four hours after the result of the election has been declared, serve a written notice either personally or by mail upon each person declared to be elected as a member of the board of education. A person upon whom such notice has been served shall be deemed to have accepted the office unless within five days after the service of such notice he shall file his written refusal with the clerk.

Education Law, § 364.

Appeals to the commissioner of education.

An appeal may be taken to the commissioner of education from such election or from any of the acts or proceedings of a school meeting or the board of education, in the same manner and with the same effect as in the case of an appeal to him from the acts or proceedings of a school meeting or election or of a board of education, under the provisions of this chapter. The commissioner of education may, in his discretion, order a new election in any town.

Education Law, § 365.

EDUCATION IN THE SEVERAL CITIES OF THE STATE.

(S. 935-961), added by L. 1917, ch. 786, in effect June 1, 1918.

1. Education is hereby established in each city of the State in each city shall be under the general management of a board of education to consist of not less than three members, to be chosen as hereinafter provided, and the members of the board of education. The number of members of each city shall be as follows:

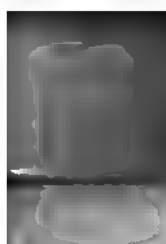
2. Nine members or less on its board of education. Each number of members on said board as each time this law goes into effect.

3. A population of one million or more shall have a board of seven members.

4. In cities of the State the number of members of the board shall be nine.

5. Any person in office at the time this law goes into effect shall continue in office and possess the powers and duties of education under this article until its successor is appointed herein.

6. All provisions of this act shall apply to and govern the operation of the public school system and other educational affairs created after this act goes into effect. The authority



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largest population, and one shall be a resident of each of the other boroughs in such city. The mayor shall appoint such members on the first Wednesday in January, nineteen hundred and eighteen, and in appointing them shall designate the terms of office of such members so that the term of one member shall expire on the first Tuesday in May, nineteen hundred and nineteen; one on the first Tuesday in May, nineteen hundred and twenty; one on the first Tuesday in May, nineteen hundred and twenty-one; one on the first Tuesday in May, nineteen hundred and twenty-two; one on the first Tuesday in May, nineteen hundred and twenty-three; one on the first Tuesday in May, nineteen hundred and twenty-four; and one on the first Tuesday in May, nineteen hundred and twenty-five. Their successors shall be chosen for full terms of seven years. Thereafter, no vacancies occur on such board they shall be filled from the several boroughs so that each borough shall always be represented on such board as required under this subdivision. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term.

3. In each city in which the law provides, prior to the time this act takes effect, that the members of the board of education shall be chosen by vote of the people at an election separate from the general or municipal election, the members of the board of education of that city shall hereafter be elected by the voters at large at the annual school election.

4. In each city in which the law provides prior to the time this act takes effect, that the members of the board of education shall be chosen by vote of the people at a general or municipal election, the members of the board of education shall continue to be chosen at such election, whether a general or municipal election, as may be provided by the law in force at such time.

5. In each other city of the state members of the board of education shall be appointed from the city at large, and the number of members shall be provided herein, but in a city having a population of less than one hundred thousand more and less than the number of members shall be determined by the affirmative vote of the board. The number of members shall be five in a city having a population of less than one hundred thousand; six in a city having a population of more than one hundred thousand and less than one million; seven in a city having a population of more than one million and less than one hundred and eighty thousand; eight in a city having a population of more than one hundred and eighty thousand and less than one million; nine in a city having a population of more than one million and less than one hundred and eighty thousand; and ten in a city having a population of more than one million and less than one hundred and eighty thousand. The term of office of the members shall be five years.

6. If the number of members of the board of education of a city is less than the number of the board of education of the city having the next largest population, the members of the board of education shall be appointed from the city at large, and the number of members shall be determined by the affirmative vote of the board. The number of members shall be five in a city having a population of less than one hundred thousand; six in a city having a population of more than one hundred thousand and less than one million; seven in a city having a population of more than one million and less than one hundred and eighty thousand; eight in a city having a population of more than one hundred and eighty thousand and less than one million; nine in a city having a population of more than one million and less than one hundred and eighty thousand; and ten in a city having a population of more than one million and less than one hundred and eighty thousand. The term of office of the members shall be five years.

7. If the number of members of the board of education of a city is less than the number of the board of education of the city having the next largest population, the members of the board of education shall be appointed from the city at large, and the number of members shall be determined by the affirmative vote of the board. The number of members shall be five in a city having a population of less than one hundred thousand; six in a city having a population of more than one hundred thousand and less than one million; seven in a city having a population of more than one million and less than one hundred and eighty thousand; eight in a city having a population of more than one hundred and eighty thousand and less than one million; nine in a city having a population of more than one million and less than one hundred and eighty thousand; and ten in a city having a population of more than one million and less than one hundred and eighty thousand. The term of office of the members shall be five years.

BOARDS OF EDUCATION.

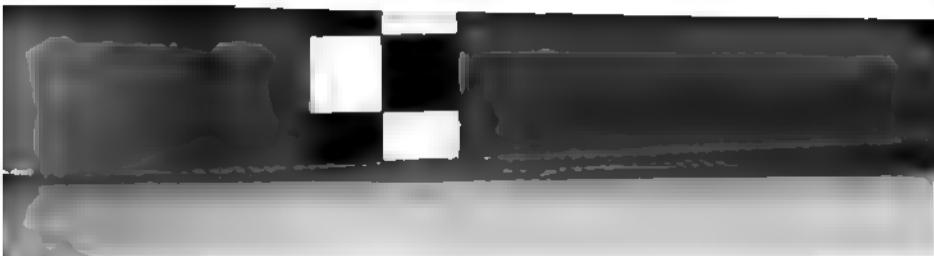
two until the first Tuesday in May, nineteen hundred and twenty, the first Tuesday in May, nineteen hundred and twenty, the first Tuesday in May, nineteen hundred and twenty, as expire, their successors shall be chosen for a full term.

persons either elected or appointed to membership for a term of education, and their successors in office, shall be chosen for terms of five years each, except as otherwise provided.

city having less than five members on its board of education, the term of such members shall be for the period of time specified prior to the time this act goes into effect. As the term of such members expire their successors shall be chosen for a full term. In a vacancy occurs in a board of education by expiration of term, the first Tuesday in May, nineteen hundred and twenty, the vacancy shall be filled at the time it occurs, and the person chosen shall immediately and hold the same for a term of five years, provided herein, from the first Tuesday in May following the occurrence of such vacancy occurs and thereafter his successor shall be chosen for a term of five years.

vacancy occurs other than by expiration of term of office of a member of a board of education in a city in which such vacancy occurs, at a school, or general, or municipal election, such vacancy shall be filled by the mayor until the next annual school election, and such vacancy shall then be filled at such election for a full term of such term.

vacancy occurs in such office in a city in which the board of education are appointed by the mayor, such vacancy shall be filled by the mayor until the next annual school election, and such vacancy shall then be filled at such election for a full term of such term.



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chapter. The provisions of law relating to and governing annual school elections, including inspectors, notices, qualifications of voters, challenges, hours for keeping polls open, penalties, canvass of votes, filing returns, supplying ballots, and all other matters relating to an annual election shall apply to and govern, so far as may be practicable, a tax election except in a city in which the election of members of the board of education is held at the general or municipal election. In such cities the law applying to and governing such general or municipal elections shall apply to and govern such tax election.

2. In such a city in which the members of the board of education are elected at the general or municipal election, a tax election for like purposes may be held by direction of the board of education. The provisions of law regulating such general or municipal elections in such cities shall apply to and govern the method of calling and holding tax elections in said cities.

Education Law, § 878.

SCHOOL ELECTIONS IN CERTAIN CITIES

[§§ 208-218], added by L. 1917, ch. 791, in effect Jan. 1, 1918.

§ 208. These provisions shall apply to each city in the state, in which municipal officers are elected by the qualified electors of such city, except in the case of a general or municipal election.

Law, § 208.

§ 209. School election.

A school election shall be held on the first Tuesday of March in each year in which this article applies.

The polls of such election shall be open from twelve o'clock noon to six o'clock in the evening.

Law, § 209.

§ 210. Qualifications of voters.

Every citizen of the United States, who is at least twenty-one years of age,

and who has resided within the election district for a period of thirty days immediately preceding the election at which he offers to vote; and who in addition to the foregoing four qualifications:



modified by resolution of the board of education. Such resolution shall accurately describe the boundaries of such districts by streets, alleys and highways, when practicable, and shall so far as may be, include one or more of the regular election districts of such city. School elections shall be held in such districts so far as may be possible in the public schoolhouses therein. If there is no public schoolhouse in a district the board of education shall by resolution designate the place where the election in such district shall be held.

Education Law, § 211.

Notices of election.

The board of education shall cause a notice of the annual school election to be published at least once in each week for the four weeks preceding such election, in at least two newspapers published in such city. Such notice shall state the day of the election and the hours during which the polls are to be open, shall accurately describe the boundaries of the school election districts into which the city is divided, and shall specify the schoolhouses or other places therein where such election will be held. Such notice shall also state that poll lists prepared by the clerk of the board of education as required by this article containing the names of the qualified electors of each school election district are on file and may be examined at the office of such clerk or of the superintendent of schools of such city.

Education Law, § 212.

Preparation of poll lists; correction.

1. The secretary or clerk of the board of education in each such city shall on or before the first day of April in each year prepare a poll list for each school election district which shall contain the names of all persons residing in such district who shall be qualified to vote for candidates for the offices of members of the board of education at the ensuing election. The names on such list shall be arranged alphabetically by the surnames, and the place of residence by street and number of each person named on such list, if any, and if not, some description accurately locating such place of residence shall be given on such list.

2. Such list shall be placed on file in the office of the secretary or clerk of the board of education or some other suitable and accessible place to be designated by the board of education where it may be examined by persons interested therein during the office hours of such secretary or clerk for thirty days preceding the annual school election and from four to eight o'clock in the evening of each Friday and Saturday of the four weeks immediately preceding the election. The secretary or clerk of the board of education or some person to be designated by such board shall attend at such office at such times, and shall permit such lists to be examined by the public.

3. Any person whose name is not upon such list, who is or will be a qualified voter of the city at such election, may file a written statement with the secretary or clerk of the board of education giving his name, place of residence, occupation and the school election district in which he resides, and specifying the qualifications which entitle him to vote at such election. The name of such voter shall thereupon be placed on such poll list. If such person appears before the secretary or clerk of the board of education and



Office of district superintendent of schools created.

Office of district superintendent of schools is hereby created to begin on the first day of January, nineteen hundred and twelve.

Section 380, as amended by L. 1910, chs. 140 and 607, in effect January 1, 1912.

Supervisory districts.

The territory embraced in the school commissioner districts of the state, consisting of cities and of school districts of five thousand population or more, which employ a superintendent of schools, shall be organized and divided into supervisory districts. In the formation or division of such territory into supervisory districts no town shall be divided. The territory of such districts shall be compact and towns shall be arranged in districts so that the division shall be as equal a division of the territory and number of school districts as may be practicable.

In any county entitled to two or more supervisory districts the school commissioners of each school commissioner district in such county and the supervisors of each town in such county shall meet at the county seat of such county on the third Tuesday in April, nineteen hundred and eleven, at ten o'clock in the forenoon and divide such county into the number of supervisory districts to which it is entitled.

The county clerk of such county shall give ten days' notice, in writing, of such meeting to each of such school commissioners and supervisors. The county clerk shall also call such meeting to order at the proper hour and the school commissioners and supervisors present shall elect from their number a chairman and a clerk.

A copy of the proceedings of such meeting showing the supervisory districts determined and naming the towns composing each of such districts, certified by the chairman and clerk, shall be deposited by the clerk of such meeting in the office of the clerk of the county immediately after the close of the meeting.



c. Albany, Clinton, Columbia, Cortland, Essex, Greene, Livingston, Niagara, Orange, Orleans, Rensselaer, Schoharie, Suffolk, Sullivan, Tioga, Tompkins, Warren, Wyoming, each three;

d. Broome, Dutchess, Franklin, Herkimer, Lewis, Madison, Monroe, Ontario, Saratoga, Ulster, Washington, Wayne, Westchester, each four;

e. Allegany, Cattaraugus, Cayuga, Chenango, Erie, Onondaga, Oswego, each five;

f. Chautauqua, Delaware, Jefferson, Otsego, each six;

g. Oneida, Steuben, each seven;

h. Saint Lawrence, eight districts.

6. The district superintendents of two or more supervisory districts in a county may unite in a petition to the board of supervisors of the county for a change in the boundaries of such districts by including or excluding one or more towns, stating the reasons for such change, and if such change conforms to the territorial requirements of subdivision one of this section, the board of supervisors may, by resolution, change such districts in accordance with such petition. A copy of such resolution, certified by the chairman and clerk of the board of supervisors, shall be deposited by the clerk in the office of the clerk of the county. The county clerk on receipt of the same shall forward a certified copy thereof to the commissioner of education.

Education Law, § 381, as amended by L. 1910, chs. 140 and 407; L. 1916, ch. 238.

School directors.

1. Two school directors shall be elected for each town at the general election held in the year nineteen hundred and ten. One of such directors shall be elected to serve until January one, nineteen hundred and thirteen, and the other shall be elected to serve until January one, nineteen hundred and sixteen. A director shall be elected at the general election in nineteen hundred and twelve and every fifth year thereafter and one shall be elected in nineteen hundred and fifteen and every fifth year thereafter. The term of office of the directors elected in nineteen hundred and twelve and thereafter shall commence on the first day of January following their election and continue for five years. In towns, except those towns situated in the counties of Nassau and Suffolk, where biennial town meetings are held at a time other than the general election, directors shall be elected at the biennial town meeting held immediately prior to the expiration of the term of their predecessors. Such directors shall be elected in the same manner that town officers are elected at town meetings held at the time of a general election, and the provisions of the election law relating to the nomination and election of such town officers shall apply to the nomination and election of such directors.

2. A school director shall vacate his office by removal from the town or by filing a written resignation with the town clerk. A vacancy in the office of school director shall be filled by the town board of the town in which such vacancy exists, for the remainder of the unexpired term. If the town fails to elect a director a vacancy shall be deemed to exist in such office.

3. A school director before entering upon the discharge of the duties of his office, and not later than thirty days after the date on which he was elected to office, shall take the oath of office prescribed by the constitution. Such oath may be taken before a justice of the peace or a notary public, and must be filed in the office of the clerk of the town.

4. A school director shall receive two dollars per day for each day's service and his necessary traveling expenses, and the town board of the town for which such director is chosen shall audit and allow the same.

Education Law, § 382, as amended by L. 1910, chs. 140 and 407; L. 1916, ch. 168.

Election of district superintendent.

1. The school directors of the several towns composing a supervisory district shall meet for organization at eleven o'clock in the forenoon on the third Tuesday in May following their election. Such meeting shall be held at a



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to election to such office in any supervisory district for a period of five years.

Education Law, § 384, as amended by L. 1910, chs. 140 and 607, in effect July 1, 1910.

District superintendent must take oath of office.

A district superintendent of schools before entering upon the discharge of the duties of his office, and not later than five days after the date on which his term of office is to commence, shall take the oath of office prescribed by the constitution. Such oath may be taken before a county clerk, a justice of the peace, or a notary public and must be filed in the office of the clerk of the county.

Education Law, § 385, as amended by L. 1910, chs. 140 and 607, in effect July 1, 1910.

Term of office of district superintendent.

The district superintendents elected in nineteen hundred and eleven shall hold office until the first day of August, nineteen hundred and sixteen. The full term of office of a district superintendent of schools elected in nineteen hundred and sixteen and thereafter shall be five years and shall commence on the first day of August next after his election. A district superintendent of schools unless removed shall hold office until his successor is chosen and qualified.

Education Law, § 386, as amended by L. 1910, chs. 140 and 607, in effect July 1, 1910.

Vacancies in the office of district superintendent.

The office of district superintendent of schools shall be vacant upon:

1. The death of an incumbent.
2. His removal from office by the commissioner of education.
3. His removal from the county.
4. His filing in the office of the clerk of the county his written resignation.
5. His acceptance of the office of supervisor, town clerk or trustee of a school district.
6. His failure to take and file the oath of office as provided in this article.

Education Law, § 387, as amended by L. 1910, chs. 140 and 607, in effect July 1, 1910.

Filling vacancy in the office of district superintendent.

Whenever a vacancy occurs it shall be filled for the remainder of the unexpired term by the board of school directors. Upon direction of the commissioner of education the clerk of the board in which the supervisory district having such vacancy is located shall immediately call a special meeting of such board for the purpose of electing a district superintendent. The provisions

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relative to the election generally of a district superintendent, filing of the proceedings and all other matters in connection with the election, shall apply to a special election to fill a vacancy.

W. § 338, as amended by L. 1910, chs. 140 and 607.

District superintendent from office.

The board of education may, by an order under the seal of the district, remove a district superintendent of schools if it is satisfied that such superintendent:

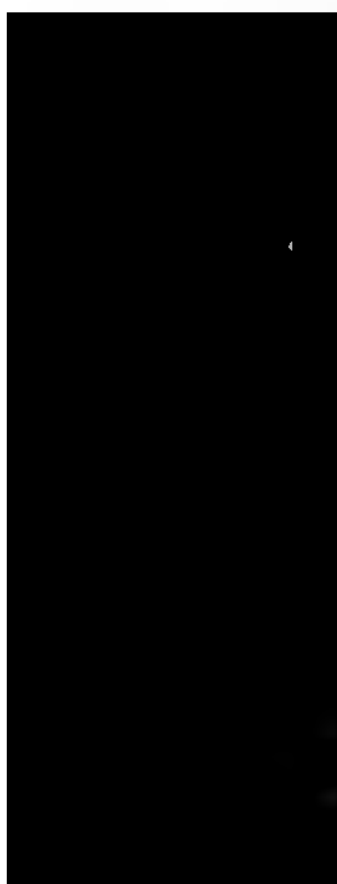
is guilty of immoral conduct;
is unable to perform any official duty; or
has been grossly negligent or willfully refused to perform his duties upon him.

W. § 392, as amended by chs. 140 and 607, in effect Jan. 1, 1911.



PART 11.

**GENERAL CONSTRUCTION LAW
AND
ACT TO PRESCRIBE RULES FOR CONSTRUCTION OF CONSOLIDATED LAWS.**



GENERAL CONSTRUCTION LAW

(L. 1909, ch. 27.)

- Article 1.** Short title (§ 1).
2. Meaning of terms (§§ 10-58).
3. Ancient statutes and resolutions (§§ 70-72).
4. References, titles and head notes (§§ 80, 91).
5. Effect of repeals (§§ 90-96).
6. Effect of consolidated laws (§§ 100, 101).
7. Application of chapter (§ 110).
8. Laws repealed; when to take effect (§§ 120, 121).

ARTICLE 1.

Short Title.

Section 1. Short title.

§ 1. Short title.

This chapter shall be known as the "General Construction Law."

ARTICLE 2.

Meaning of Terms.

- Section 10.** Acknowledge and acknowledgment.
11. Acknowledgment or proof of instrument.
12. Affidavit.
13. Adjournment of meeting.
14. Bond and undertaking.
15. Chattels.
16. Choose.
17. Civil code and criminal code.
18. Consolidated laws.
19. Day, calendar.
20. Day, computation.
21. The term folio shall mean one hundred words, counting each figure as a word.
22. Gender.
23. Heretofore and hereafter.
24. Holiday and half holiday.
25. Holiday in contractual obligations.
26. Judge.
27. Last, preceding, next and following.
28. Lunatic and lunacy.
29. Men.
30. Month, computation.
31. Month in statute, contract and public or private instrument.
32. Municipal officers.
33. Notice.
34. Now.
35. Number, singular and plural.
36. Oath, affidavit and swear.

GENERAL CONSTRUCTION LAW.

Person.
Property.
Property, personal.
Property, real.
Quorum and majority.
Register of county.
Seal of court, public officer or corporation.
Seal, private.
Seal, private as corporate seal.
Signature.
State.
Sense, present.
Territory.
Time, computation.
Time, night.
Time, standard.
Time, use of standard.
Village.
Women.
Writing and written.
Year, common and leap.
Year in statute, contract and public or private instrument.

Knowledge and acknowledgment.

Acknowledge and acknowledgment, when used with reference to an instrument or writing other than a deed of real estate, in compliance with the provisions of the next section by a person making acknowledgment.

Acknowledgment or proof of instrument.

Execution of any instrument or writing is authorized and the instrument or writing may be acknowledged, or to be proven so as to entitle it to be recorded in the public office, the acknowledgment may be taken or

§ 18. Consolidated Laws.

The term Consolidated Laws shall mean the compilation of the statutes prepared by the board of statutory consolidation and the amendments thereto.

§ 19. Day, calendar.

A calendar day includes the time from midnight to midnight. Sunday or any day of the week specifically mentioned means a calendar day.

§ 20. Day, computation.

A number of days specified as a period from a certain day within which or after or before which an act is authorized or required to be done means such number of calendar days exclusive of the calendar day from which the reckoning is made. Sunday or a public holiday, other than a half holiday, must be excluded from the reckoning if it is the last day of any such period, or if it is an intervening day of any such period of two days. In computing any specified period of time from a specified event, the day upon which the event happens is deemed the day from which the reckoning is made. The day from which any specified period of time is reckoned shall be excluded in making the reckoning.

(Amended by L. 1910, ch. 347, in effect May 21, 1910.)

§ 21. The term folio shall mean one hundred words, counting each figure as a word.

When an officer empowered by law to do so shall order an official advertisement published in a newspaper in display type or to be so displayed as to leave an unusual quantity of blank space in the advertisement, or to contain pictures or diagrams, or where the character of such advertisement requires it, such advertisement shall be paid for by measurement over all of such space necessarily used, two square inches of space to count as one folio. When there are over fifty and under one hundred words, they shall be counted as one folio; but a less number than fifty words shall not be counted, except when the whole statute, notice or order contains less than fifty words.

Amended by L. 1914, ch. 72, in effect March 24, 1914.

§ 22. Gender.

Words of the masculine gender include the feminine and the neuter, and may refer to a corporation, or to a board or other body or assemblage of persons; and, when the sense so indicates, words of the neuter gender may refer to any gender.

§ 23. Heretofore and hereafter.

Each of the terms, heretofore, and hereafter, in any provision of a statute, relates to the time such provision takes effect.

§ 24. Holiday and half holiday.

The term holiday includes the following days in each year: The first day of January, known as New Year's day; the twelfth of February, known as Lincoln's birthday; the twenty-second day of February, known as Washington's birthday; the thirtieth day of May, known as Memorial day; the fourth day of July, known as Independence day; the first Monday of September, known as Labor day; the twelfth day of October, known as Columbus day; and the twenty-fifth day of December, known as Christmas day, and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general thanksgiving, general fasting and prayer, or other general religious observances. The term half holiday includes the period from noon to midnight of each Saturday which is not a holiday.

Amended by L. 1909, ch. 112.

§ 25. Holiday in contractual obligations.

Where a contract by its terms requires the payment of money or the performance of a condition on a public holiday, such payment may be made or condition performed on the next business day succeeding such holiday, with the same force and effect as if made or performed in accordance with the terms of the contract.

§ 26. Judge.

The term includes every judicial officer authorized, alone or with others, to hold and preside over a court of record.

GENERAL CONSTRUCTION LAW.

preceding, next and following.

to the last or preceding section, or other provision of this act or other division immediately preceding, and a following section or other division of a statute means the section immediately following.

lunar and lunacy.

lunar and lunacy include every kind of unboundedness.

males include boys.

month, computation.

of months after or before a certain day shall be counted by the number of calendar months from such day, excluding the day in which such day occurs, and shall include the first day of the last month so counted having the same numerical value as the day from which the computation is made, unless the day is the last day of the month in which case the computation shall expire with the last day of the month so counted.

month in statute, contract and public or private instrument, contract or public or private instrument, unless otherwise provided, shall mean a calendar month and not a lunar month.

principal officers.

as to several officers of a municipal corporation holding a board of such officers, shall be deemed to refer to each of such officers, when but one person is chosen to fill an office.

**§ 39. Property, personal.**

The term personal property includes chattels, money, things in action, and all written instruments themselves, as distinguished from the rights or interests to which they relate, by which any right, interest, lien or incumbrance in, to or upon property, or any debt or financial obligation is created, acknowledged, evidenced, transferred, discharged or defeated, wholly or in part, and everything, except real property, which may be the subject of ownership.

Oil wells and all fixtures connected therewith, situate on lands leased for oil purposes and oil interests, and rights held under and by virtue of any lease or contract or other right or license to operate for or produce petroleum oil, shall be deemed personal property for all purposes except taxation.

§ 40. Property, real.

The term real property includes real estate, lands, tenements and hereditaments, corporeal and incorporeal.

§ 41. Quorum and majority.

Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of all such persons or officers at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, may perform and exercise such power, authority or duty, and if one or more of such persons or officers shall have died or have become mentally incapable of acting, or shall refuse or neglect to attend any such meeting, a majority of the whole number of such persons or officers shall be a quorum of such board or body, and a majority of a quorum, if not less than a majority of the whole number of such persons or officers may perform and exercise any such power, authority or duty.

§ 42. Register of county.

Any act done in pursuance of law by the register of a county shall be deemed to be a compliance with any provision of law authorizing or requiring such act to be done by the county clerk of such county, and any instrument or writing filed, entered or recorded in pursuance of law in the office of a register of a county, shall be deemed to be a compliance with any provision of law authorizing or requiring such paper to be filed, entered or recorded, as the case may be, in the office of the clerk of such county. The term county clerk when used in relation to conveyances of real property or the filing or recording of instruments which are or may be filed in the office of the register of a county, shall include the register of each county in which there is a register.

§ 43. Seal of court, public officer or corporation.

A seal of a court, public officer or corporation may be impressed directly upon the instrument or writing to be sealed, or upon wafer, wax or other adhesive substance affixed thereto, or upon paper, or other similar substance affixed thereto by mucilage or other adhesive substance.

§ 44. Seal, private.

The private seal of a person, other than a corporation, to any instrument or writing shall consist of a wafer, wax or other similar adhesive substance affixed thereto, or of paper or other similar substance affixed thereto, by mucilage or other adhesive substance, or of the word "seal," or the letters "L. S.," opposite the signature.

§ 45. Seal, private as corporate seal.

An instrument or writing duly executed, in the corporate name of a corporation, which shall not have adopted a corporate seal, by the proper officers of the corporation under their private seals, shall be deemed to have been executed under the corporate seal.



GENERAL CONSTRUCTION LAW.

Signature.

A signature includes any memorandum, mark or sign, or any instrument or writing with intent to execute or amend a contract or writing.

State.

The word state, when used generally to include every state of the Union, includes also every territory of the United States and the District of Columbia.

Tense, present.

The present tense includes the future.

Territory.

The word territory when used generally to include every territory of the United States, includes also the District of Columbia.

Time, computation.

All time shall continue to be computed in this state according to the civil style. The first day of each year after the year seventeen hundred and eighty-five shall be the first day of January, according to such style.

Time, night.

The word night includes the time from sunset to sunrise.

Time, standard.

The standard time throughout this state is that of the meridian of longitude west from Greenwich, and all courts and public and official proceedings, shall be regulated thereby.

Time, use of standard.

Any act required by or in pursuance of law to be performed at a

ARTICLE 3.

Ancient Statutes and Resolutions.

- Section 70.** Statutes of England and Great Britain inoperative in this state.
71. Acts of the legislature of the colony of New York inoperative.
72. Resolutions of the congress of the colony and the convention of New York inoperative.

§ 70. Statutes of England and Great Britain inoperative in this state.

A statute of England or Great Britain shall not be deemed to have had any force or effect in this state since May first, seventeen hundred and eighty-eight.

§ 71. Acts of the legislature of the colony of New York inoperative.

Acts of the legislature of the colony of New York shall not be deemed to have had any force or effect in this state since December twenty-ninth, eighteen hundred and twenty-eight.

§ 72. Resolutions of the congress of the colony and the convention of New York inoperative.

The resolutions of the congress of the colony of New York and of the convention of the state of New York, shall not be deemed to be the laws of this state hereafter.

ARTICLE 4.

References, Titles and Head Notes.

- Section 80.** References to repealed provisions.
81. Titles and head notes.

§ 80. References to repealed provisions.

If any provision of a law be repealed and, in substance, re-enacted, a reference in any law to such repealed provision shall be deemed a reference to such re-enacted provision.

§ 81. Titles and head notes.

If the title of any article or other division of a statute, or the head note of a section shall be amended or repealed in the body of the statute, or if a new article or other division having a title, or a new section having a new head note be added to a statute, the corresponding title or head note, if any, in an abstract of contents at the beginning of the article or other division of the statute shall be deemed to be correspondingly amended or repealed, although there be no express reference thereto.

ARTICLE 5.

Effect of Repeals.

- Section 90.** Effect of the repeal of a repealing statute.
91. Effect of the repeal of a statute upon amendments thereof.
92. Effect of the repeal of an amending statute.
93. Effect of repealing statute upon existing rights.
94. Effect of repealing statute upon pending actions and proceedings.
95. Effect of the repeal of a statute by another statute substantially re-enacting the former.
96. Effect of hyphen in schedule of repeals.

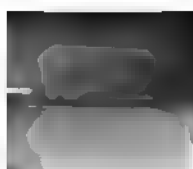
§ 90. Effect of the repeal of a repealing statute.

The repeal hereafter or by this chapter of any provision of a statute, which repeals any provision of a prior statute, does not revive such prior provision.

**SOLIDATED LAWS AND
ORDINANCES**

[illegible]

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 DIVISION OF THE PHYSICAL SCIENCES
 DEPARTMENT OF PHYSICS
 521 EAST 58TH STREET
 CHICAGO, ILLINOIS 60637
 TEL: 773-936-5000
 FAX: 773-936-5000
 WWW: WWW.PHYSICS.UCHICAGO.EDU



PART 12.

ELECTION LAW FORMS.

NOTE

Inasmuch as the Board of Statutory Consolidation in the preparation of the Election Law has followed as far as possible the chronological order of the election process, beginning with the primaries and enrollment in parties, continuing through registration for elections, the proceedings in preparation for and upon Election Day, the proceedings of the Boards of Canvassers, etc., it has been deemed advantageous to arrange these forms likewise as far as possible in the chronological order. They have been arranged in the numerical order of the sections of the Election Law to which they are applicable.

LIST OF ELECTION LAW FORMS.

1. Form of enrollment books. (Elec. Law, §§ 4 and 5.)
2. Form for enrollment blanks. (Elec. Law, § 7.)
3. Certification of enrollment occurring on a day of registration. (Elec. Law, § 12.)
4. Certification of enrollment occurring on the day of general election. (Elec. Law, § 13.)
5. Certification of enrollment by custodian of primary records. (Elec. Law, § 14.)
- 5a. Special enrollment upon becoming of age. (Elec. Law, § 14b.)
- 5b. Special enrollment of voters who failed to enroll in 1916. (Elec. Law, § 14c.)
6. Transcript of enrollment list. (Elec. Law, § 14a.)
7. Affidavit for correction or enrollment list. (Elec. Law, § 14a.)
8. Certification of duplicate enrollment books. (Elec. Law, § 16.)
9. Form of enrollment books for changed districts. (Elec. Law, § 20.)
10. Certificate of enrollment. (Elec. Law, § 21.)
11. Certificate of transfer. (Elec. Law, § 21.)
13. Certificate of names and addresses of officers of party committees. (Elec. Law, § 40.)
14. Certification of rules and regulations. (Elec. Law, § 40.)
17. Petition for designation of candidates for party nomination or for election to party position. (Elec. Law, § 48.)
18. Declination by person designated. (Elec. Law, § 50.)
19. Certificate of nomination, to fill vacancy, by duly authorized committee. (Elec. Law, § 52.)
20. Certificate of Board of Elections where pasters are provided for primary elections. (Elec. Law, § 52.)
21. Official primary ballot. (Elec. Law, § 58.)
22. Oath of primary election officers. (Elec. Law, § 70.)
23. Preliminary oath by challenged voter at primary election. (Elec. Law, § 72.)
24. Certificate of chairman of general committee as to coming primary elections, etc. (Elec. Law, § 75.)
25. Notice of official primary. (Elec. Law, § 75.)
26. For appointments to fill vacancies in board of primary election officers. (Elec. Law, § 77.)
27. Primary election poll book. (Elec. Law, § 78.)
28. Primary election tally sheet blanks. (Elec. Law, § 79.)
29. Ballot return sheet. (Elec. Law, §§ 86 and 87.)
30. Primary inspectors' return and statement of result. (Elec. Law, §§ 79, 86 and 87.)
31. Certificate of nomination to public office or of election to party position. (Elec. Law, § 89.)
32. Certificate of nomination to fill vacancy in a nomination for public office made at a primary election. (Elec. Law, § 90.)

LIST OF ELECTION LAW FORMS.

- 1 of nomination for town, village and certain cities (Elec. Law, § 121.)
- 2 certificate of nomination. (Elec. Law, §§ 122, 123.)
- 3 nominations to be published by board of elections. (Elec. Law, § 124.)
- 4 to be sent by board of elections to each town clerk, county or city. (Elec. Law, § 131.)
- 5 nominations to be posted by town or village clerk at each general election. (Elec. Law, § 132.)
- 6 of nomination by person nominated otherwise than by election. (Elec. Law, § 133.)
- 7 notices in nominations by duly authorized committee occurs in nomination made otherwise than by official. (Elec. Law, §§ 135, 136.)
- 8 of board of elections where death of candidate after registration of petition. (Elec. Law, § 137.)
- 9 register in election districts in which personal registration required. (Elec. Law, § 155.)
- 10 primary lists. (Elec. Law, § 157.)
- 11 to residence. (Elec. Law, § 163.)
- 12 administered to illiterate or disabled voters. (Elec. Law, § 164.)
- 13 affidavits. (Elec. Law, § 168.)
- 14 administered to applicant for registration who is illiterate. (Elec. Law, § 169.)
- 15 record of challenge. (Elec. Law, § 173.)
- 16 of register at close of each meeting for registration in a city or district wholly within a village of 5,000 or more. (Elec. Law, § 174.)
- 17 of register at close of each meeting for registration in a city or district wholly within a village of 5,000 or more. (Elec. Law, § 174.)
- 18 of total number of registered voters. (Elec. Law, § 175.)

61. Appointment of poll clerk or ballot clerk in case of vacancy or absence from meetings of inspectors. (Elec. Law, § 313, ¶ 5.)
62. Precept in case of refusal to obey the lawful commands of the inspectors. (Elec. Law, § 315.)
63. Precept in case of disorderly conduct in presence or hearing of inspectors. (Elec. Law, § 315.)
64. Bill for compensation in towns. (Elec. Law, § 319.)
65. General ballot. (Elec. Law, § 331.)
66. Ballot for questions submitted. (Elec. Law, § 332.)
67. Sample ballot. (Elec. Law, § 333.)
68. Instruction card to be printed in English and in each of such other languages as the officer or officers charged with providing them shall deem necessary, to be provided for each polling place on election day. (Elec. Law, § 333.)
69. Ballot clerk's return. (Elec. Law, § 335.)
70. Return and tally of votes cast for presidential electors. (Elec. Law, § 337.)
71. Return and tally of votes for officers other than presidential electors. (Elec. Law, § 338.)
72. Return and tally of votes upon questions submitted. (Elec. Law, § 339.)
73. Ballots in towns in which town meetings are held at the time of general elections. (Elec. Law, § 341.)
74. Election inspectors' receipt for official ballots, etc., received from town or city clerk. (Elec. Law, § 343.)
75. Unofficial ballots. (Elec. Law, § 345.)
76. Proclamation of opening of polls. (Elec. Law, § 350.)
77. Certificate of appointment of watchers. (Elec. Law, § 352.)
78. Poll book for keeping the list of voters voting or offering to vote at elections. (Elec. Law, § 355.)
79. Oath of illiterate or disabled voter. (Elec. Law, § 357.)
80. Oath to be taken by election officers before opening of polls on election day. (Elec. Law, § 357.)
81. Preliminary oath on challenge in relation to right to vote at elections. (Elec. Law, § 362.)
82. Questions to be put to challenged voters by inspectors after administering preliminary oaths. (Elec. Law, § 362.)
83. General oath and additional oaths to be administered by one of the inspectors to a person persisting in his claim to vote when challenge is not withdrawn. (Elec. Law, § 363.)
84. Record of persons challenged. (Elec. Law, § 364.)
85. Statement of return of canvass. (Elec. Law, § 373.)
86. Proclamation of result of election. (Elec. Law, § 375.)
87. Statements of canvass by county boards of canvassers. (Elec. Law, § 437.)

FORM No. 1.
(Election Law, §§ 4 and 5)
Pollment books, see Election Law, §§ 4 and 5.

(Election Law, § 7.)
 sealment blanks, see Election Law, § 7.

(Election Law, § 12)
 (Enrollment occurring on a day of registration.)

signed inspectors of election of the
ward (or assembly district) of the
do hereby severally certify, and declare
visions of the Election Law, § 12, that the persons
(or attached) original enrollment books are the on
tered personally this year as voters in the above
on any of the days of registration, viz.,
and.
urther certify and declare that the number of the



ELECTION LAW FORMS.

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FORM No. 4.

(Election Law, § 13.)

Certification of Enrollment occurring on the day of general election.

We, the undersigned inspectors of election of the.....election district of theward (or assembly district) of the city (or village) of.....do hereby severally certify, and declare, pursuant to the provisions of the Election Law, § 13, that the last enrollment number used on the day of, 19..., which was the last preceding day of registration, was No., and that the persons shown by the within enrollment books, whose enrollment number is higher than said last number used on said last preceding day of registration, are the only persons who voted in the above mentioned district at the general election held this day (or on the day of, 19...) who were not registered personally.

Dated....., N. Y.,, 19...

.....
.....
.....
.....

Inspectors.

STATE OF NEW YORK,)

COUNTY OF,) ss.:
..... OF,)

(Insert names of inspectors) being severally duly sworn, depose and say and each for himself says, that he is a regularly constituted inspector of elections in the district mentioned in the foregoing declaration; that he has read and subscribed the said declaration and that the same is true to the knowledge of deponent.

.....
.....
.....
.....

(Inspectors.)

Severally subscribed and sworn to before me, }
this.....day of....., 19... }

.....
(Officer taking verification.)

N. B.—To be severally subscribed and verified by the board of election inspectors in duplicate, one of which shall be printed in or attached to each of the enrollment books.

FORM No. 5.

(Election Law, § 14.)

Certification of Enrollment by Custodian of Primary Records.

We, and, the members of the Board of Elections of the county (or city) of, the custodians of primary records of such county (or city), do hereby certify and declare that we have correctly and properly transcribed to the within (or attached) original enrollment

ELECTION LAW FORMS.

enrollments from all of the enrollment blanks delivered by me to the Board of Elections, in accordance with § 14 of the Election Law and we have correctly and properly filled out the enrollment indicated on the blank of each voter to be enrolled, as provided in said section of the Election Law.
N. Y., 19

.....
Custodians of Primary Records

(NEW YORK,)

....., } ss.

....., being duly sworn, depose and say, and swear that he is one of the custodians of primary records of the Board of Elections; that he has read and subscribed the foregoing enrollment and that the same is true to the knowledge of depositor.
.....

(Custodians of Primary Records)

sworn to before me, }
day of , 19 }

(Officer taking verification.)

The foregoing enrollment has been subscribed and verified in duplicate, one of which is attached to each of the original enrollment books.

FORM No. 5a.

Special enrollment upon becoming of age, see Election Law, § 14.



FORM No. 7.

(Election Law, § 14a.)

Affidavit for Correction of Enrollment List.

May be filed with Board of Elections at any time after completion of Enrollment books in any year, and prior to the ensuing first day of July.

I,, do solemnly declare that I reside at No., in the City or Town of, and am a duly qualified voter of the Election District of the Ward or Town in the said City or Town of; that at one of the last preceding days for the enrollment of party voters in such election district I received an enrollment blank and made my mark in a circle under one of the party emblems thereon, but such marking was done inadvertently and indicated my enrollment with a party with which I was not then affiliated and with which I did not intend to enroll; and I therefore request that I be especially enrolled with the Party. I am in general sympathy with the principles of the Party. It is my intention to support generally at the next general election the nominees of such party. I have been duly and regularly enrolled with such party for at least five (5) years prior to the enrollment at which such mistake occurred. I have not participated in any primary election or convention of any other party during such period of five years.

Dated,, 191...

STATE OF NEW YORK,)

CITY OF, } ss:
COUNTY OF,

On this day of, 191..., before me personally came to me known and known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

STATE OF NEW YORK,)

CITY OF, } ss:
COUNTY OF,

....., being duly sworn deposes and says that he resides at in the City or Town of, and has been a qualified elector in the Ward or Town of the City or Town of for the past years and that during all such years deponent has been affiliated with and an enrolled member of the Party and has voted the ticket. That the enrollment books on file with the custodians of primary records show deponent enrolled with the Party only for the years of 1908, 1909 and 1910, the enrollment books for the preceding years of 1906 and 1907 having been destroyed and that deponent is unable to procure transcripts of certificates of his enrollment for such years. That annexed hereto and made a part of this application are the affidavits of and showing that deponent has participated in the primaries of the Election District of the Ward or Town in the said City or Town of in the years 1906 and 1907.

Therefore, your deponent prays that the custodians of primary records change deponent's enrollment from the Party to the Party and so enter it upon the original enrollment books

as provided by Chapter 52 of the Laws of 1912, in order that the deponent may participate in the primary held on....., 191...

Sworn to before me this..... }
day of , 191... }

STATE OF NEW YORK, }
CITY OF } ss.:
COUNTY OF

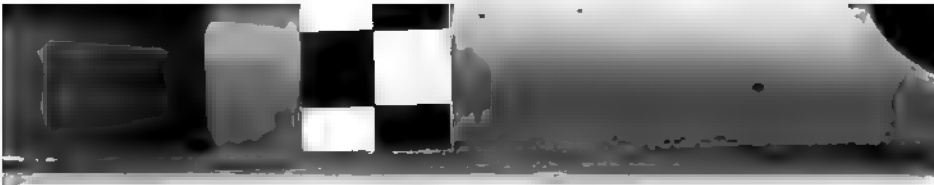
....., being duly sworn, deposes and says that he resides at No.....in the City or Town of....., that he knowsof No.....in the City or Town of.....and has known him for.....years last past. That deponent to his own knowledge has seen said.....participating in the.....primaries of.....Election District of the.....Ward or Town of the City or Town of.....by voting thereat on the official primary day in the years 1906 and 1907 and that said.....has been to the knowledge of deponent an enrolled member of the.....Party for more than five years preceding the enrollment of the fall of 191...

Sworn to before me this..... }
day of , 191... }

STATE OF NEW YORK, }
CITY OF } ss.:
COUNTY OF

....., being duly sworn, deposes and says that he resides at No.....in the City or Town of....., that he knowsof No.....in the City or Town of.....and has known him for.....years last past. That deponent to his own knowledge has seen said.....participating the.....primaries of.....Election District of the.....Ward or Town of the City or Town of.....by voting thereat on the official primary day in the years 1906 and 1907 and that said.....has been to the knowledge of deponent an enrolled member of the.....Party for more than five years preceding the enrollment of the fall of 191...

Sworn to before me this..... }
day of , 191... }



ELECTION LAW FORMS.

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FORM No. 8.

Certification of Duplicate Enrollment Books.

(Election Law, § 16.)

We, the undersigned, the members of the board of elections of the county (or city) of.....and the custodians of primary records of such county (or city), do hereby certify and declare that the foregoing is a correct transcript of the names, addresses and political affiliation of each voter enrolled in the county (or city) of.....taken from the original enrollment books filed in our office, and being the enrollment books made during the days of registration of voters for or at the general election held in said county (or city) on the.....day of....., 19...

Dated....., N. Y.,, 19...

.....
.....

Custodians of Primary Records.

FORM No. 9.

(Election Law, § 20.)

For form of enrollment books for changed districts, see Election Law, § 20.

FORM No. 10.

(Election Law, § 21.)

Certificate of Enrollment.

STATE OF NEW YORK, }
COUNTY OF, } ss.:

We, the undersigned, the members of the Board of Elections of the county (or city) of....., the custodians of primary records in and for such county (or city), do hereby certify that.....was duly enrolled as a member of the.....party on the....day of....., 19..., in and for the.....election district of the....ward (or assembly district) of the city (or village) of.....

Witness our hands at the city (or village) of....., this....day of....., 19...

.....
.....

Custodians of Primary Records.

FORM No. 11.

(Election Law, § 21.)

Certificate of Transfer.

STATE OF NEW YORK, }
COUNTY OF, } ss.:

We, the undersigned, the members of the Board of Elections of the county (or city) of....., the custodians of primary records

I, county (or city), do hereby certify that
 member of the party, was an
 .., 19... transferred from the election dist-
 rict (or assembly district) of the city (or village) of
 election district of the ward (or assembly
 district) of the
 wards at the city (or village) of the
 .., 19...

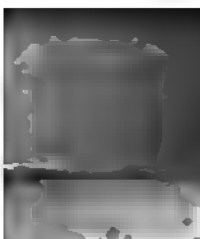
Содержание / Primary Contents

(Election Law, § 43.)

of Names and Addresses of Officers of Party Committee
, the duly elected secretary of the State of
 party (or of the county committee)
 party in and for the county of
) do hereby certify that the members of said committee
 a primary election held on the day of
 said committee duly met on the day of
 ized thereupon by the election of
, as the chairman thereof,
, as the treasurer thereof, and
, as the secretary thereof. (Give names
 men of any other officers elected.)
 ... N. Y., 19...

Secretary of Council

testimony to be filed within three days with the



ELECTION LAW FORMS.

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Form No. 18.

(Election Law, § 50.)

Declination by Person Designated.

To the Secretary of State (or custodian of primary records):

Please take notice that I decline the designation as candidate for nomination by the party for the office of (or the party position of) tendered to me by the committee of the said party (or by petition of duly enrolled voters of said party), to be voted for at the official primary election to be held on the day of , 19... , certificate of which designation has been filed in your office.

Dated , N. Y., , 19...

STATE OF NEW YORK, } ss.:
COUNTY OF, }

On this day of , 19. , before me personally came , to me known to be the person described in and who executed the foregoing declination, and he acknowledged to me that he executed the same for the purposes therein mentioned.

.....
(Officer taking acknowledgment.)

FORM No. 19.

(Election Law, § 52.)

Certificate of Nomination, to Fill Vacancy, by Duly Authorized Committee.

To the (insert officer with whom original certificate of nomination is filed):
Whereas,

(here set forth cause of vacancy)

Now, therefore, we and the duly authorized committee to fill vacancies, pursuant to the provisions of section fifty-two of the election law, do hereby certify that we have nominated the following named person to fill the vacancy caused by

Name of new candidate.	Place of residence.	Name of original candidate.	Name of political party.
------------------------	---------------------	-----------------------------	--------------------------

Dated , N. Y., , 19...

.....
(a majority of committee.)

STATE OF NEW YORK, } ss.:
COUNTY OF, }

On the day and date below mentioned, before me personally appeared and to me known to be the persons described in and who executed the foregoing certificate, and who severally acknowledged the execution thereof for the purposes therein set forth, and each of said persons being by me severally duly sworn did depose and say

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and therein stated are true to the best of their knowledge.

(signature of committeemen signing certificate)
I, subscribed and sworn to before me, this
19..

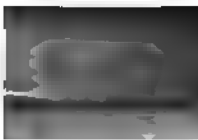
(Officer taking acknowledgment and oath.)

FORM No. 20.

(Election Law, § 52.)

Certificate of Board of Elections Where Pastors are Provided for at Primary Elections.

I, undersigned, the members of the Board of Elections of the
....., and custodians of primary records, in and to
do hereby certify that on the day of
last primary ballots had been printed for the official
election held on the day of 19.. a new
election to fill a vacancy in designation for the office (or
..... to be voted for by the enrolled voters
..... party in the place of was read
secretary of State (or was filed in our office.)
I hereby certify that we have prepared and we are delivering
pursuant to section fifty two of the election law, a duplicate
of the name of the candidate designated to fill said vacancy.



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FORM No. 22.

(Election Law, § 70.)

Oath of Primary Election Officers.

STATE OF NEW YORK, }

COUNTY OF ALBANY. }

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of (Inspector of Primary Election) according to the best of my ability.

Subscribed and sworn to before me,
this....day of....., 19...

N. B.—To form a part of the return to custodians of primary records.

FORM No. 2

(Election Law, § 72.)

Preliminary Oath by Challenged Voter at Primary Election.

You do solemnly swear (or affirm) that you will answer truly such questions as shall be put to you touching upon your right to participate in this primary election.

N. B.—After making oath or affirmation, challenged voter must answer the questions prescribed by Election Law, § 72.

FORM No. 24.

(Election Law, § 75.)

Certificate of Chairman of General Committee as to Coming Primary Elections, Etc.

STATE OF NEW YORK, }

COUNTY OF }

I,, chairman of the general committee of the..... party of the county of....., do hereby certify that the following is a true and correct list and statement showing the conventions with time and place for the holding thereof; also showing the committees and offices for which delegates, members or candidates (as the case may be), are to be elected at the official primary election to be held on the....day of....., 19.., and showing the number of delegates to conventions, and members of committees to be elected in each unit of representation.

(Here insert full list and statement.)

Witness my hand at the city (or village) of. this.... day of....., 19...

.....
Chairman of General Committee.

(To be delivered to custodian of primary records at least thirty-five days before each official primary day.)

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FORM No. 25.

(Election Law, § 75.)

of notice of official primary to be prepared and published
plan of primary records, see requirements specified in

FORM No. 26.

(Election Law, § 77.)

for appointments to fill vacancies in board of primary
records, see forms Nos. 32 and 40.

FORM No. 27.

(Election Law, §§ 78, 78-a.)

of primary election poll book, see requirements specified
in law, §§ 78, 78-a.

FORM No. 28.

(Election Law, § 79.)

of primary election tally sheet blanks, see requirements
in law, § 79.



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5. The number of sets of primary ballots actually voted was....
6. Total sets of primary ballots accounted for are.....

7. The number of sets of detached stubs was.....
8. The number of sets of stubs on unused ballots was.....
9. The total sets of stubs accounted for are.....

We hereby certify that the foregoing ballot return for election district
number.....of the.....of....., County of
.....for the primary election held....., 19.., is correct.

Ballot Clerks.

FORM No. 30.

(Election Law, §§ 79, 85, 87.)

Primary Inspectors' Return and Statement of Result.

(Make Return for Each Election District Separate. Not for Primary District.)

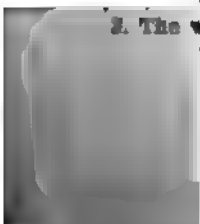
Statement of result of the votes cast at the official primary election,
held on the....day of....., 19.., by the.....voters of the
.....election district of the.....ward or town of
.....County of.....and State of New York, made
by the inspectors of primary elections in the.....election district of
said (ward or town).

Return of Ballots Voted.

1. The whole number of primary ballots actually voted, as veri-
fied by the return of the ballot clerks attached hereto,
was.
2. The number of primary ballots cast and found to be entirely
blank, all of which were returned by us to the ballot
box, was.
3. The number of primary ballots cast which were rejected by
us as "void" and on which no vote was counted for any
candidate, all of which are in the sealed package re-
turned herewith, and on each of which ballots is indorsed
the reason for such rejection, was.....
4. The number of primary ballots cast on which votes were
counted for one or more candidates, all of which were
returned to the ballot box (except those protested as be-
ing marked for identification), was.....
5. The total number of ballots accounted for by us is.....

Statement and Result of the Votes for the Office of.....

1. The number of ballots cast on which votes were counted for
any candidate for office, was.....
2. The number of ballots cast and counted on which there was no
vote for the office of....., was.....
3. The whole number of ballots on which votes were counted for
the office of, was.....



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.....received

.....received.

.....received.

.....received.

its.

Total

(a separate statement for each office)
pts which were objected to as marked for identified
r the several candidates named thereon; each of and
marked by us "Protested as marked for identified
marking to which objection was made being specified
on each ballot.

several ballots, together with those which were re
are herewith returned in a sealed package

by certify that the foregoing statement of result is
all respects

On...day of, 19

.....

.....

.....

Board of Ins

co, also, § 52 of Election Law, as to including stat
eived, used, etc.

We also further certify that the following named persons,
, were appointed a committee for the purpose of filling vacancies, pursuant to section 135 of the Election Law.

.....
 Presiding Officer of Party Primary.

(Residence, city or town, street and number, if any.)

.....
 Secretary to Party Primary.

(Residence, city or town, street and number, if any.)

STATE OF NEW YORK, }
 County of....., } ss.:

..... and, being severally sworn, each for himself, says that the said was the presiding officer of the party Primary mentioned and described in the foregoing certificate, and that the said was the secretary of such Party Primary, and that said certificate and the statements therein contained are true, to the best of his information and belief.

.....

Severally subscribed and sworn to before me,
 this day of, 19

.....
 (Officer taking oath.)

Acknowledgment and Affidavit to be Annexed to Certificate.

STATE OF NEW YORK, }
 County of....., } ss.:

On the day and date below mentioned before me personally appeared to me known and known to me to be the persons described in and who executed the foregoing certificate, and who severally acknowledged the execution thereof for the purposes therein set forth, and each of said persons being by me severally duly sworn depose

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and say that the matters therein stated are true to the best of his information and belief.

(Signed)

.....
.....
.....

Acknowledged, subscribed and sworn to before me,
this day of 19 ..

.....
(Officer taking acknowledgment and oath.)

FORM No. 35.

(Election Law, §§ 122, 123.)

Independent Certificate of Nomination.

To the

(Insert name of officer with whom certificate is to be filed.)

We, the undersigned duly qualified voters of the State of New York (or district for which the nomination for public office is made), in accordance with the provisions of sections one hundred and twenty-two and one hundred and twenty-three of the election law, hereby make the following nominations for offices to be filled at the next election in the (state district or election division).

Titles of offices to be filled	Name of the candidate.	Political or other name which signers select.†	Residence of the candidate nominated.†	Place of business.†
.....
.....
.....
.....

We hereby select as an emblem or device to represent and distinguish the candidates hereby nominated by us a which emblem or device is shown by the following representation: (Insert facsimile.)

And we do designate and appoint and (name, residence and place of business) to represent the signers of this certificate for the purposes set forth in section one hundred and thirty-five of the election law.

We, the undersigned, duly qualified voters of the district for which the nomination for public office is hereby made under the provisions of sections one hundred and twenty-two and one hundred and twenty-three of the election law do hereby declare that it is our intention to support at the polls the candidacy of the person or persons herein nominated for public office.

* To be designated in not more than five words.

† If in a city, the street and number of residence and place of business.

‡ To be designated in not more than five words and not to include names of any organized political party.

ELECTION LAW FORMS.

Signature.	Residence, town or city, street and street number, if any.
.....
.....
.....

Necessary of the signers to sign any affidavit. The making of the officers before whom the oath is taken. The signature of one paper. See last paragraph of Election Law § 121 as to which will be counted.

Notary or Other Officer Before Whom Oath is Taken.
Annexed to the Certificate of Nomination.

W YORK,

} ss..

by of..... in the year... , before me personally inserted the names of each and every voter appearing before the said officer), each of whom was to me known by me to be the voter whose name and place assigned by him to the foregoing certificate and each of them being by me duly and severally sworn did me swear and has truly stated his residence, and that I support at the polls the candidacy of the person or persons for public office in the foregoing certificate of nomination.

(Signature and official position of officer.)

FORM No. 24.

(Election Law § 121.)



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FORM No. 27.

(Election Law, § 131.)

Printed List to be Sent by Board of Elections to Each Town Clerk or Alderman in County or City.

(Same to be posted by town clerk or alderman in election districts.)
To the (Town Clerk or Alderman) of (Town of or Ward of):

Please take notice that the following named persons whose certificates of nomination have been filed with us, or certified to us, as candidates for office, are to be voted for at the election to be held on the....day of....., 19...

Name of candidate.	Place of residence.*	Place of business.*	Office to be filled.	Party or other designation of candidate.	Fac simile of emblem or device to represent and distinguish candidates.
.....
.....
.....
.....

(Signed)

Members of Board of Election.

FORM No. 28.

(Election Law, § 132.)

List of Nominations to be Posted by Town or Village Clerk at Other than Time of General Election.

To the Voters of (town or village of):

The following is a true and correct list of all nominations of candidates for offices to be filled at the election to be held, 19..., filed with me pursuant to the provisions of the Election Law:

Name of candidate.	Residence.	Office to be filled.	Party or other designation of candidate.	Fac simile of emblem or device to represent and distinguish candidates.
.....
.....
.....
.....

(Here insert fac similes opposite candidates of each party.)

Clerk.

* If in a city, the street number of residence and place of business.

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FORM No. 39.

(Election Law, § 133.)

Decline of Nomination by Person Nominated Otherwise Than
At a Special Primary Election.

County of State (or other officer or board):

I take notice that I decline the nomination for the
office of _____, created to me by the (convention, primary or votes
of the _____ party, filed in your office _____

_____ N. Y., _____, 19...

Yours,

NEW YORK, _____

_____ ss.:
_____)

_____ day of _____, 19..., before me personally came...
_____ to be the person described in, and who executed the
_____ on, and he acknowledged to me that he executed the
_____ therein mentioned.

(Officer taking acknowledgment)

FORM No. 40.

(Election Law, §§ 135, 136.)

Decline of Nomination by Duly Authorized Committee

**Acknowledgment and Affidavit to be Annexed to Certificate.**

STATE OF NEW YORK,
COUNTY OF } ss.:
..... OF }

On the day and date below mentioned before me personally appeared to me known and known to me to be the persons described in and who executed the foregoing certificate, and who severally acknowledged the execution thereof for the purposes therein set forth, and each of said persons being by me severally duly sworn depose and say that the matters therein stated are true to the best of his information and belief.

(Signed)

Acknowledged, subscribed and sworn to before
me, this day of, 19..

(Officer taking acknowledgment and oath.)

FORM No. 41.

(Election Law, § 137.)

Certificate of Board of Elections where Death of Candidate After Printing of Ballots Requires Use of Pastors.

We, the undersigned, the members of the Board of Elections of the County of do hereby certify that on the day of, 19.., after the official ballots had been printed for the general election to be held on the day of, 19.., a new certificate of nomination to fill a vacancy in nomination for the office of caused by the death of the duly nominated candidate of the party for such office, was received by us from the secretary of state (or was filed in our office.)

We further certify that we have prepared and we are delivering to you herewith, pursuant to section one hundred and thirty-seven of the Election Law, adhesive pasters containing the name of the candidate nominated to fill the vacancy and the title of the office for which he was nominated.

We further certify as follows:

1. That the name of the original candidate is
2. That the name of the new nominee is
3. That the title of the office for which the nomination is made is
4. That the name of the political party (or independent body) making the nomination is
5. That the number of pasters furnished herewith is

Witness our names and official seal, at, State of New York, this day of, 19..

Members of Board of Elections.

Form No. 42.

(Election Law, § 155.)

For form of register in election districts in which personal registration of voters is required, see Election Law, § 155.



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FORM No. 43.

(Election Law, § 157.)

of registry lists, see Election Law, § 157.

FORM No. 44.

(Election Law, § 163.)

Affidavit as to Residence.

NEW YORK, } ss.:
or
....., being duly sworn, says:
..... years old and a student at
at No., city and county of
here or elsewhere in county, and
are indefinitely, and I have no present intention of
business or occupation is
....., city and county of
to I resided at
intention to reside there again, and have notified the
spectors and registration of district
residence to the county of and the
longer remain on the list of registered voters in said
room to before me
.. day of .., 19.. }



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FORM No. 48.

(Election Law, § 173.)

Oath for Record of Challenge.

You do swear (or affirm) that you have reason to believe that whose name appears on the register of electors in this election district, will not be qualified to vote at the election for which such register of electors is made.

FORM No. 49.

(Election Law, § 176.)

Certification of Register at Close of Each Meeting for Registration in a City or District Wholly Within a Village of 5,000 or More.

We, the undersigned inspectors of election of the election district of the ward (or assembly district) of the city (or village) of do hereby severally certify that the within (or attached) register, as it now is, comprising (here insert the number) names, is a true and correct register of the names and residences of all the voters qualified to vote at the election to be held in said district on the day of, 19.., who have personally appeared before the undersigned board of registration.

Dated, N. Y.,, 19...

.....
.....
.....
.....

Inspectors.

N. B.—To be signed by all the inspectors.

FORM No. 50.

(Election Law, § 176.)

Certification of Register at Close of Each Meeting for Registration, Elsewhere than in a City or District Wholly Within a Village of 5,000 or More.

We, the undersigned inspectors of election of the election district of the town (or village) of, do hereby severally certify that the within (or attached) register, as it now is, comprising (here insert the number) names, is a true and correct register of all voters qualified to vote at the election to be held in said district on the day of, 19., who have personally applied for registration, or whose names the board of registration was required by law to place thereon.

Dated, N. Y.,, 19...

.....
.....
.....
.....

Inspectors.

N. B.—To be signed by all the inspectors.



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FORM No. 51.

(Election Law, § 181.)

Certificate of Total Number of Registered Voters.
(*name of officer or board*).

I, *name of officer or board*, composed of the board of inspectors of
of the *name of city or town* of *name of county*, do hereby
registration, on the *day* day of *month* registration,
registered in such district was
... this of 19...

Board of Inspectors

At the close of registration on the fourth day, the above
furnished by the secretary of state, to be forthwith
an officer or board charged with the duty of furnishing
in district, and to the state superintendents of elections.

FORM No. 52.

(Election Law, § 181.)

**Number of Voters Registered at Close of Each
Registration Day.**

(*name of officer or board*).
I, *name of officer or board*, composed of the board of inspectors of the
of the *name of city or town* of *name of county*, do hereby
that at the close of registration on the *day* day of *month* registration,
the number of voters registered in each district was as follows:



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I will faithfully discharge the duties of the office of (inspector of elections and of primary election officer) according to the best of my ability.

Subscribed and sworn to before me, }
this day of 19.... }
(Officer administering oath.)

FORM No. 55.
(Election Law, § 309.)

Certificate by Chairman of Board of Inspectors Showing Number of Days of Service of Each Member of Board, Etc.

To the (Mayor or Appointing Board):

I,, chairman of the board of inspectors of election of the election district of ward (or as the case may be), of the city (or village) (or town) of, do hereby certify, pursuant to the provisions of section 309 of the election law, that the following is a true and correct statement of the number of days of actual service of each member of said board of inspectors and the names of the persons who served as poll clerks and ballot clerks on election day:

Inspectors.		
Names.	Residences.	Days of Service.
.....
.....
.....
.....
.....
Poll-Clerks.		
.....
.....
.....
Ballot Clerks.		
.....
.....
.....

I hereby further certify that the (store, building or room) designated in the above-named election district for registration and election purposes at was actually used for such purposes for days, viz.,, etc.

Dated, N. Y.,, 19....

(Chairman of Board of Inspectors.)

N. B.—To be filled out and furnished to mayor or board appointing such officers within twenty-five hours after election. The names of persons who may have served temporarily as election officers, but who are not entitled to pay for such services, must not appear upon this certificate. See Election Law, § 313.

FORM No. 56.
(Election Law, § 312.)

Appointment of Poll Clerks and Ballot Clerks in Towns.
We, the undersigned inspectors of the election district of the

ELECTION LAW FORMS.

..., representing the ... party, entitled
board of inspectors of said district, do hereby
to the office of poll clerk in and for said dis
in the office of ballot clerk, pursuant to the pro
hundred and twelve of the election law.
... day of ..., 19 ...

Inspectors of ...
filed with the town clerk, and a copy thereof with
of each person mailed to the county clerk.

FORM No. 57.

(Election Law, § 313, ¶ 1.)

**By Inspector of Voter to Act as Member of Board
in Case of Vacancy or Absence of an Inspector at A
cting.**

... a vacancy in the office of inspector of election for ...
on the meeting of the Board of Inspectors this dis
election district of the ... of ...
..., representing the same political party, do hereby
election law, ..., who is a qualified
ed a member of the same political party as said ...
in the place of said absent inspector for the whole of ...

... (Inspector of ...)
... day of ..., 19 ...
... so appointed entitled to be paid the amount ...
... would have been entitled to if he had been present



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FORM No. 59.

(Election Law, § 313, ¶ 3.)

Appointment by Inspector or Inspectors Present, of Voters to Act as Members of Board of Inspectors Where Two Inspectors of Same Party Are Absent on Any Registration Day.

..... and, inspectors of election for the election district of the of, representing the party, being absent from the meeting of the Board of Inspectors held this day for the purpose of registration in said election district, I (or we), the inspector (or inspectors) present at said meeting, do hereby appoint, pursuant to the election law, and who are qualified voters of said district and who are members of the same political party as said absent inspectors, to act until such absent inspectors or their duly appointed successors shall appear.

.....
.....
(Inspector or inspectors of election.)

Dated this day of, 19...

N. B.—Persons so serving temporarily shall serve without pay. Persons appointed must take oath of office.

FORM No. 60.

(Election Law, § 313, ¶ 4.)

Designations, by Voters Present, to Fill Vacancies in Board of Inspectors Where Offices of All Inspectors Are Vacant or No Inspector Appears Within One Hour.

The offices of all the inspectors of the election district of the of being vacant (or no inspector of the election district of the of having appeared within one hour after the time fixed by law for the opening of the meeting of the Board of Inspectors, to be held this day) we, the undersigned, qualified voters of said district present, hereby designate and appoint , and , who are qualified voters of said district and who belong to and are equally divided between the two political parties which at the last preceding general election, cast the highest and the next highest number of votes, to fill such vacancies (or to act in the place of to act in the place of , etc.,) until the said absent inspectors respectively appear, the said persons so designated being respectively members of the same political party as such absent inspectors.

Dated this day of, 19...

N. B.—To be signed by not less than ten qualified voters of the district present. Persons appointed must take oath of office.

FORM No. 61.

(Election Law, § 313, ¶ 5.)

Appointment of Poll Clerk or Ballot Clerk in Case of Vacancy or Absence from Meetings of Inspectors.

There being a vacancy in the office of (poll clerk or ballot clerk) (or a duly appointed [poll clerk or ballot clerk] being absent from the meeting of inspectors this day) in the election district of the of, I (or we) the inspector (or inspectors)

ELECTION LAW FORMS.

ing the same political party as the said absent (p
n hereby appoint, pursuant to the election law.
d voter of said district and who is a member of
n the said absent (poll clerk or ballot clerk) to

..... day of , 19
Inspector or inspectors of elect
so designated must take oath of office.

FORM No. 62.

(Election Law, § 315.)

Warrant of Refusal to Obey the Lawful Commands of
Inspectors.

the State of New York to the Sheriff of the County of _____, or any constable, peace or police officer of said County, meeting of the Board of Inspectors held in and for the election district of the _____ of _____.

_____ did unlawfully and intentionally thereunto, for example—obstruct the passage-way to the polls preventing free access to the said polls in open and defiance of the command of us, the undersigned inspectors of the _____, lawfully given in his hearing you are therefore hereby notified that the said _____ and him safely keep until the registration of voters or the canvass of the _____ shall be completed.
_____ never shall not be so executed by you as to prohibit



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loud and boisterous noises or by violent stamping etc., or by commencing a riot and affray with divers persons or as the case may be) interrupt and disturb the proceedings of us, the said inspectors, in conducting the said meeting of said Board, you are therefore hereby ordered forthwith to arrest the said and him safely keep and retain in custody until (the registration of voters or the canvass of the votes given in election district) shall be completed.

This order however shall not be so executed by you as to prohibit said person so taken into your custody from voting.

Given under our hands this day of, 19...

.....
.....
.....
.....

(Inspectors of election.)

Deputation to be Written on Back of Precept in Case No Sheriff, Constable, Peace or Police Officer is Present.

No sheriff, constable, peace or police officer being present to whom the within precept can be delivered, we hereby depute.....to execute the within process.

FORM No. 61.

(Election Law, § 319.)

Bill for Compensation in Towns.

....., N. Y....., 19...

Town of

To, Inspector of Election, Dr.

19...

Oct.	to attendance at meeting for registration.....	\$
Nov.	to attendance at election.....	\$
Nov.	to filing election blanks, etc., in County Clerk's office*	\$5.00
Nov.	to mileage for filing election returns, etc., in County Clerk's office, 20 miles at 4c.*.....	\$ 80

\$....

Received payment,

STATE OF NEW YORK, }

COUNTY OF, } ss.:
..... OF

....., inspector of election for the election district of the Town of in said County, being duly sworn deposes and says, that the items contained in the foregoing account are correct and that the services charged therein have been in fact rendered and that no part thereof has been paid or satisfied.

Sworn to before me, this }
day of, 19... }

(Officer taking affidavit.)

N. B.—The above itemized account and oath is required by Town Law, section 175, and the oath may be taken before the chairman of the Town Board or any other person authorized to administer oaths.

*In county seat towns, inspectors cannot charge for this service and only the inspectors designated to file returns should include this item in his bill.

FORM No. 65.

(Election Law, § 331.)

For form of general ballot, see Election Law, § 331.**FORM No. 66.**

(Election Law, § 332.)

For form of ballot for questions submitted, see Election Law, § 332.**FORM No. 67.**

(Election Law, § 333.)

For form of sample ballot, see Election Law, § 333.**FORM No. 68.**

(Election Law, § 333.)

Instruction Card to Be Printed in English and in Each of Such Other Languages as the Officer or Officers Charged with Providing Them Shall Deem Necessary, to Be Provided for Each Polling Place on Election Day.**Instructions for the Guidance of Voters.***

Obtaining Ballots.—While the polls of the election are open, the voters entitled to vote and who have not previously voted thereat, may enter within the guard-rail at the polling place of such election for the purpose of voting in such order that there shall not, at any time, be within such guard-rail more than twice as many voters as there are voting booths thereat in addition to the persons lawfully within such guard-rail for other purposes than voting. The voter shall enter within the guard-rail through the entrance provided and shall forthwith proceed to the inspectors and give his name, and if in a city or village of 5000 inhabitants or over, his residence by street and number, or if it have no street number, a brief description of the locality thereof, and if required by the inspectors shall state whether he is over or under 21 years of age. One of the inspectors shall thereupon announce the name and residence of the voter in a loud and distinct tone of voice. No persons shall be allowed to vote in any election district at any election where voters are required to be registered unless his name shall be upon the registration books of such election district.

The right of any person to vote whose name is on such register shall be subject to challenge. If such voter is entitled to vote thereat and is not challenged or if challenged and the challenge be decided in his favor, one of the ballot clerks shall then deliver to him one official ballot or a set of official ballots, folded by such ballot clerk in the proper manner for voting. * * *

No person other than an inspector or ballot clerk shall deliver to any voter within such guard-rail any ballot and they shall deliver only such ballots as the voter is legally entitled to vote and also the sample ballot when the same is asked for. (Part of Election Law, § 356.)

Assistance to Disabled or Illiterate Voters.—Any voter who shall, at the time of registration, have made oath of physical disability or illiteracy, as prescribed by section one hundred and sixty-four of this chapter; or who, being duly registered in an election district where personal registration by all voters is required by law, shall state under oath to the inspectors of election on the day of election that, by reason of some accident, the time and place of

* Statute requires that these instructions be set in clear, large type, in red ink. Election Law, § 333.



which he must specify, or of disease, the nature of which he must also specify, he has, since the day upon which he registered, lost the use of both hands, or become totally blind, or afflicted by such degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, or so crippled that he cannot enter the voting booth and prepare his ballot without assistance; or any voter in an election district who is not required by law to personally register, who is unable to write by reason of illiteracy, or is physically disabled in one or more ways described in section one hundred and sixty-four of this chapter, and who shall make the statement under oath to the inspectors in the form required in said section, may choose two of the election officers, both of whom shall not be of the same political faith, to enter the booth with him to assist him in preparing his ballots. At any town meeting or village election where the election officers are all of the same political faith, any voter entitled to assistance as herein provided may select one of such election officers and one voter of such town or village of opposite political faith from such election officer so selected, to render such assistance.

No voter shall otherwise ask or receive the assistance of any person within the polling place in the preparation of his ballot, or divulge to any one within the polling place the name of any candidate for whom he intends to vote or has voted. (Part of Election Law, § 357.)

Preparation of Ballots by Voters.—On receiving his ballot the voter shall forthwith and without leaving the inclosed space retire alone, unless he be one that is entitled to assistance in the preparation of his ballot, to one of the voting booths, and without undue delay unfold and mark his ballot as hereafter prescribed. No voter shall be allowed to occupy a booth already occupied by another, or to occupy a booth more than five minutes in case all the booths are in use and voters waiting to occupy the same.

It shall be unlawful to deface or tear an official ballot in any manner; or to erase any printed line, letter or word therefrom; or to erase any name or mark written thereon by a voter. If a voter wrongly mark, deface, or tear a ballot or one of a set of ballots, he may successively obtain others, one set at a time, not exceeding in all three sets, upon returning to the ballot clerks each set of ballots already received.

The voter shall mark his ballot with a pencil having black lead as follows and not otherwise:

1. To vote for an entire group of presidential electors of any party by means of a single mark, he shall make a cross \times mark in the circle above the party column.

2. To vote for any candidate on any ballot, except for an entire group of presidential electors by means of a single mark, he shall make a cross \times mark in the voting square at the left of the candidate's name.

3. If a voter makes a cross \times mark in the circle above a party column and also makes a cross \times mark in one or more voting squares at the left of the names of one or more presidential electors or writes in a name or names, he shall be deemed to have voted for the electors whose names are thus specially indicated and also for all the electors on the ticket so marked in the circle, except those whose names are opposite to the names so specially indicated.

4. To vote for any candidate not on the ballot, he shall write the candidate's name on a line left blank in the appropriate place.

5. To vote on any constitutional amendment or question submitted, he shall make a cross \times mark in the appropriate voting square at the left of the question as printed on the ballot.

A cross \times mark shall consist of any straight line crossing any other straight line, at any angle, within a circle or voting square. Any mark other than a cross \times mark or any erasure of any kind shall make the whole ballot void; but no ballot shall be declared void because a cross \times mark thereon is irregular in character. Any ballot which is defaced or torn by the voter shall be void. If a voter shall do any act extrinsic to the ballot itself, such as in-



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paper or other article to the folded ballot, such ballot
elector marks more names than there are persons to
or if for any other reason it is impossible to deter-
ce of a candidate for an office to be filled, his vote
such office but shall be returned as a blank vote for
a case of a candidate for governor, the candidate is
ore political organizations, and the voter makes a cross
re voting spaces or squares, his vote for such candidate
he shall not be recorded in the tally sheet or returns
rticular party or independent body. (Election Law, § 1

of Voting.—When the ballot or ballots which a voter
be prepared as provided in the preceding section, he shall
with his ballot folded so as to conceal the face of the
indorsement and the initials of the signature of the official
and, keeping the same so folded, shall proceed to the
charge of the ballot box, and shall enter the same to-
h inspector shall announce the name of the voter and the
he stub of the official ballot so delivered to him in a
of voice). If such voter be entitled then and there to vote
d, or if challenged and the challenge be decided in his fa-
or ballots are proper and valid, and have no mark or tear
thereof, except the printed number on the stub and the
on the back, and if such printed number is the same
he poll books as the number on the stub or stubs of the
of ballots last delivered to him by the ballot clerk, such
such ballot or ballots, and after removing the stubs
plain view of the voter, and without removing any of
, or in any way exposing any part of the face thereof, de-
posit each ballot in the proper ballot box for the race
and the stubs in the box for detached ballot stubs. Upon
all forthwith pass outside the guard rail unless he be or-
dered to remain within the guard rail for other purpose.

* ballot folded shall be unfolded outside the voting box
from any official ballot shall be delivered shall be



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FORM No. 71.

(Election Law, § 338.)

For form of return and tally of votes for officers other than presidential electors, see Election Law, § 338.

FORM No. 72.

(Election Law, § 339.)

For form of return and tally of votes on questions submitted, see Election Law, § 339.

FORM No. 73.

(Election Law, § 341.)

For form of ballots in towns in which town meetings are held at the time of general elections, see Election Law, § 341.

FORM No. 74.

(Election Law, § 343.)

Election Inspectors' Receipt for Official Ballots, Etc., Received from Town or City Clerk.

Received of.....(City or Town Clerk):

One sealed package marked on the outside thereof as containing..... official ballots and indorsed with the designation of this election district.

One sealed package marked on the outside thereof as containing..... sample ballots and indorsed with the designation of this election district.

One sealed package with a label on the outside thereof specifying that such package contains.....instruction cards, two poll books,.....distance markers, two tally sheets, and three complete election return blanks for the use of inspectors and ballot clerks, heavy manilla envelopes for statements and returns, sealing wax, pencils having black lead only, pens, penholders, blotting paper and ink (or as the case may be).

Dated....., N. Y., this }
....day of....., 19... }

.....
.....
.....
.....
(Inspectors of election for the.....
election district of the.....of.....)

FORM No. 75.

(Election Law, § 345.)

For form of unofficial ballots, see Election Law, § 345.

ELECTION LAW FORMS.

FORM No. 76.

(Election Law, § 350.)

Proclamation of Opening the Polls.

Ye' hear ye' The polls of this election are opening and the same are strictly charged and commanded in the name of the people of the State to bring their attendance at this election on pain of law. persons are desired to take notice that the polls will be open at the hour of 1 o'clock in the afternoon.

FORM No. 77.

(Election Law, § 352.)

Certificate of Appointment of Watchers.

of the committee of the party of a political party (or independent body) which has nominated candidates for officers to be elected at the election to be held on the day of 19 the and were, by virtue of the said political organization (or independent body) and the election law, appointed watchers to attend the election district of the town (or ward) of the signature of the chairman (or secretary) of the said political party (or independent body) this

(Chairman or Secretary)



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for any particular candidate and that I will not keep or make any memorandum or entry of anything occurring within the booth and that I will not, directly or indirectly, reveal to any person the name of any candidate voted for by any voter or which ticket he has voted or anything occurring within the voting booth, except I be called upon to testify in a judicial proceeding for a violation of the election law.

Subscribed and sworn to before me, {
this....day of....., 19... {
.....
(Officer administering oath.)

FORM No. 81.

(Election Law, § 362.)

For form of preliminary oath on challenge in relation to right to vote at elections, see Election Law, § 362.

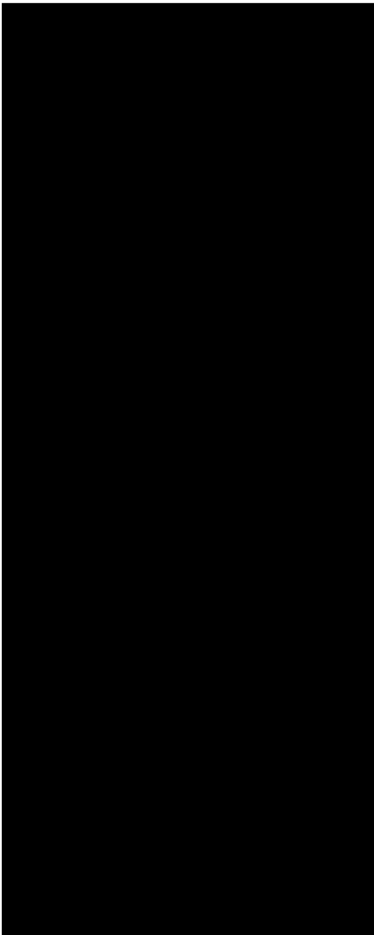
FORM No. 82.

(Election Law, § 362.)

Questions to be Put to Challenged Voters by Inspectors After Administering Preliminary Oath.

1. What is your name?
2. What was your last place of residence before you came into this election district?
3. Where do you now reside? State as precisely as you are able the particular locality of your place of residence.
4. Are you a citizen of the United States?
5. Are you a native or naturalized citizen?
6. (If a naturalized citizen) When were you naturalized?
7. Where and in what court or before what officer were you naturalized?
8. Did you come into this election district for the purpose of voting at this election?
9. How long do you contemplate residing in this election district?
10. What is your age?
11. How long have you resided in this election district?
12. How long have you resided in this county?
13. How long have you resided in this state?
14. How long have you resided in the United States?
15. Have you made any bet or wager or are you directly or indirectly interested in any bet or wager depending on the result of this election?
16. Have you received or offered to receive or do you expect to receive any money or other valuable thing as a compensation or reward for giving your vote at this election?
17. Have you paid, offered or promised to pay, contributed, offered or promised to contribute, to another, to be paid or used, any money or other valuable thing, or made any promise, to influence the giving or withholding of any vote at this election?





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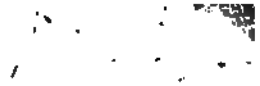
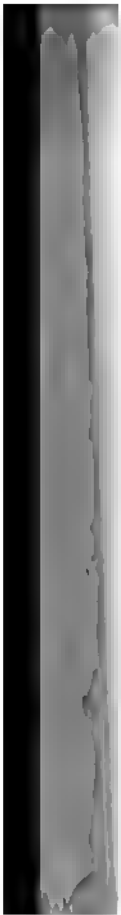
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PART 13.

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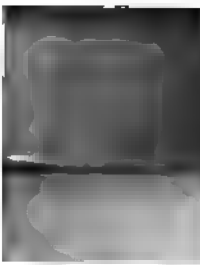
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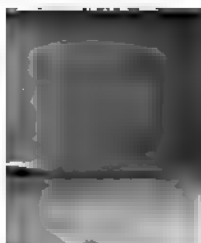
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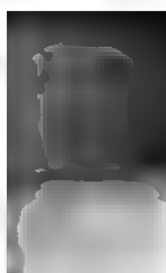
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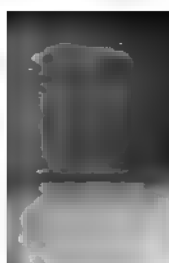
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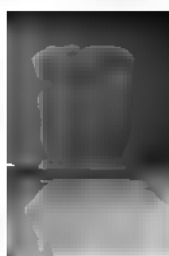
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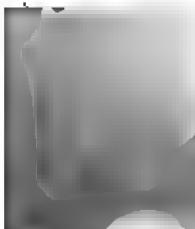
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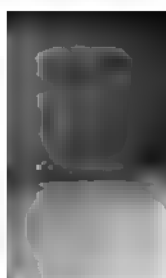
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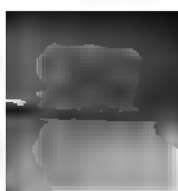
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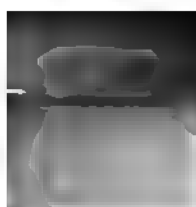


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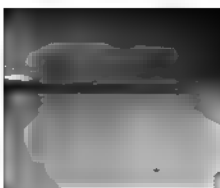
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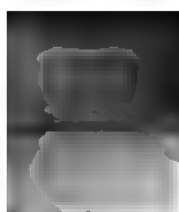
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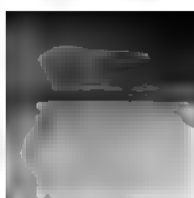
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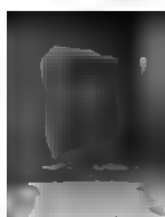


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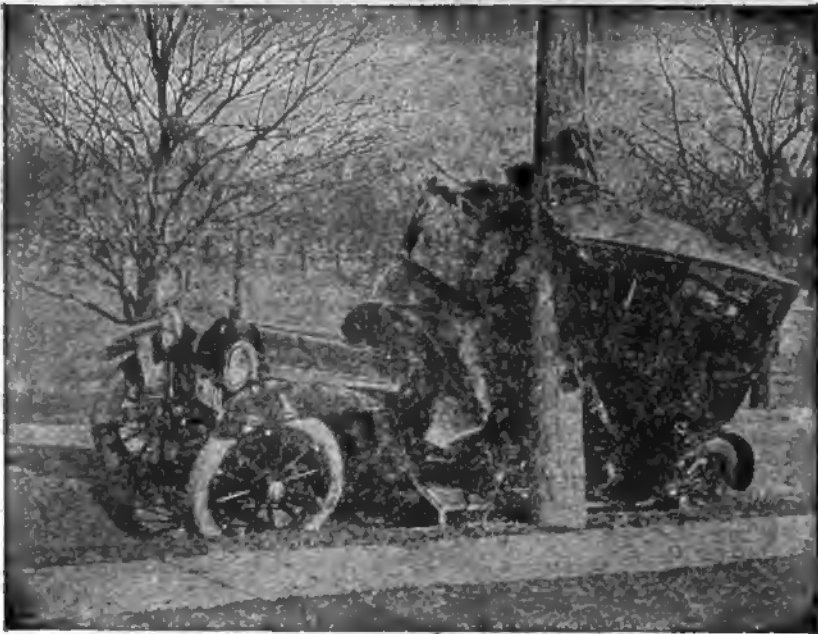
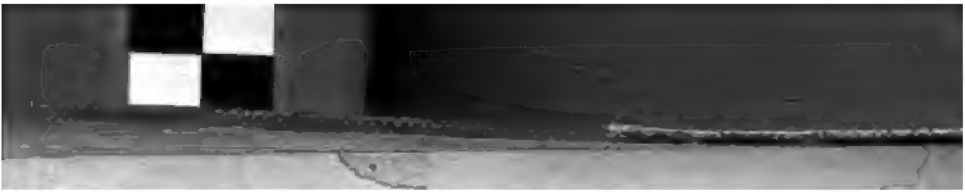
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